

Legislative Analysis



CODE OF CRIMINAL PROCEDURE: ABUSE OF VULNERABLE ADULTS

Mitchell Bean, Director
Phone: (517) 373-8080
<http://www.house.mi.gov/hfa>

House Bill 5669

Sponsor: Rep. Bob Constan

Committee: Senior Health, Security, and Retirement

Complete to 2-11-08

A SUMMARY OF HOUSE BILL 5669 AS INTRODUCED 1-24-08

Under Chapter IV of the Code of Criminal Procedure, which deals with arrests, a magistrate is required to issue an arrest warrant upon the presentation of a proper complaint alleging the commission of an offense and a finding of reasonable cause to believe that the accused individual has committed that offense. The statute lays out the proper basis for a finding of reasonable cause.

House Bill 5669 would amend Chapter IV (MCL 764.1a) to specify that a magistrate could not refuse to accept a complaint alleging a violation of Chapter XXA of the Michigan Penal Code, which deals with the abuse of vulnerable adults, on the grounds that the complaint is signed upon information and belief by an individual other than the victim.

As defined in the Michigan Penal Code, a vulnerable adult, generally speaking, is (1) an individual age 18 or over who, because of age, developmental disability, mental illness, or physical disability requires supervision or personal care or lacks the personal and social skills required to live independently; (2) an individual unable to protect himself or herself from abuse, neglect, or exploitation because of a mental or physical impairment or because of advanced age; or (3) a child placed in an adult foster care family home or an adult foster care small group home with the approval of the Department of Human Services.

[There is currently a similar provision in the Code of Criminal Procedure that prohibits a magistrate from refusing to accept a complaint alleging assault or aggravated assault by the victim's spouse or former spouse, an individual with whom the victim has had a child in common, or an individual residing or having resides in the same household as the victim on grounds that the complaint is signed upon information and belief by an individual other than the victim.]

FISCAL IMPACT:

The bill could create increased local court and law enforcement costs if by prohibiting the magistrate from refusing to accept complaints on additional grounds, it resulted in increased arrests.

Legislative Analyst: E. Best

Fiscal Analyst: Bethany Wicksall

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