

Legislative Analysis



CODE OF CRIMINAL PROCEDURE: ABUSE OF VULNERABLE ADULT

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House Bill 5011

Sponsor: Rep. Bob Constant

Committee: Senior Health, Security, and Retirement

Complete to 6-8-09

A SUMMARY OF HOUSE BILL 5011 AS REPORTED FROM COMMITTEE ON 6-3-09

House Bill 5011 would amend Chapter IV (MCL 764.1a) of the Code of Criminal Procedure to specify that a magistrate could not refuse to accept a complaint alleging a crime had been committed against a vulnerable adult on the grounds that the complaint is signed upon information and belief by an individual other than the victim.

[There is currently a similar provision in the Code of Criminal Procedure that prohibits a magistrate from refusing to accept a complaint on the grounds that the complaint is signed upon information and belief by an individual other than the victim in cases of domestic abuse; that is, cases where there are allegations of 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. This was put in place by Public Act 70 of 1994. The provision in House Bill 5011 mirrors that in Public Act 70.]

Chapter IV of the Code of Criminal Procedure deals with arrests, and it requires a magistrate 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.

Definition of Vulnerable Adult. 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.

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.

BACKGROUND INFORMATION:

The director of the state's Office of Services to the Aging gave the following testimony to the House Committee on Senior Health, Security and Retirement as the rationale for the bill:

When physical or mental abuse or financial exploitation occurs, the older adult may be reluctant or unable to sign a complaint. As with victims of domestic violence, they may fear retribution, or may well see no other options for housing or care if they are dependent on the person . . . providing housing or care . . . In addition, older adults may be trusting and not willing to believe or accept that a loved one, or the friendly man or woman who offers to help out is really exploiting them or causing them harm.

POSITIONS:

Office of Services for the Aging testified in support of the bill. (6-3-09)

A representative of Elder Law of Michigan testified in support of the bill. (6-3-09)

Michigan Advocacy Project supports the bill. (6-3-09)

The Office of the Wayne County Prosecutor testified in support of the bill. (6-3-09)

Legislative Analyst: E. Best
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■ This analysis was prepared by nonpartisan House staff for use by House members in their deliberations, and does not constitute an official statement of legislative intent.