

BEGGING IN A PUBLIC PLACE: DECRIMINALIZE

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House Bills 5103 and 5104 as introduced

Sponsor: Rep. Michael D. McCready

Committee: Criminal Justice

Complete to 2-1-16

Analysis available at
<http://www.legislature.mi.gov>

BRIEF SUMMARY:

House Bill 5103 creates a new act—the Aggressive Solicitation Prohibition Act—to prohibit soliciting another person in public under certain circumstances, makes a violation of the act a state civil infraction with a maximum fine of \$100, and allows a local government to adopt or enforce a local ordinance relating to aggressive solicitation.

House Bill 5104 eliminates begging in a public place as an act constituting the crime of being a disorderly person.

The bills are tie-barred to each other, meaning that one bill cannot take effect unless the other is also enacted into law. The bills will take effect 90 days after enactment.

DETAILED SUMMARY:

House Bill 5104 amends the Michigan Penal Code (MCL 750.167). Section 167 lists the acts that constitute the crime of "disorderly person", a misdemeanor offense punishable by not more than 90 days in jail and/or a maximum fine of \$500. The bill eliminates "begging in a public place" as one of the listed acts, thereby effectively decriminalizing public begging.

House Bill 5103 creates a new act, entitled the "Aggressive Solicitation Prohibition Act." "Soliciting" would be defined as using any means of communication, including, but not limited to, spoken, written, or printed word to request a donation or exchange of money or any other thing of value regardless of the purpose or intended use of the money or other thing of value.

Under the bill, a person could not solicit another under any of the following circumstances:

- Within 15 feet of any entrance or exit to a bank *if* the person soliciting does not have the bank's permission to be on bank property. ("Bank" is defined to mean a state or nationally chartered bank or a state or federally chartered savings and loan association, savings bank, or credit union.)
- Within 15 feet of an ATM *if* the person soliciting does not have permission of the ATM's owner to be there.
- In a public area, by doing any of the following:
 - Intentionally, knowingly, or recklessly making physical contact with or touching another person without that person's consent.

- Approaching or following a person in a manner intended or likely to cause a reasonable person to fear imminent apprehension of bodily harm.
- Approaching or following a person in a manner reasonably likely to intimidate a person into responding affirmatively to the solicitation.
- Continuing to solicit a person after that person has communicated that he or she does not want to be solicited.
- Intentionally, knowingly, or recklessly obstructing the safe or free passage of a person being solicited *or* requiring that person to take evasive action to avoid physical contact with the person making the solicitation.
- Intentionally, knowingly, or recklessly using obscene or abusive language or gestures intended or likely to cause a reasonable person to fear imminent apprehension of bodily harm.
- Intentionally, knowingly, or recklessly using obscene or abusive language or gestures reasonably likely to intimidate a person into responding affirmatively to the solicitation.

"Public area" is defined in the bill to mean an area that the public or a substantial group of persons has access to and includes, but is not limited to, alleys, bridges, buildings, driveways, parking lots, parks, playgrounds, plazas, sidewalks and streets open to the general public, and doorways and entrances to buildings and dwellings.

Penalties. A violation would be a state civil infraction and the person would be subject to a fine of not more than \$100. However, the act would not prohibit a person from being charged with, convicted of, or punished for any other violation of law, including a violation of law arising out of the same transaction as the violation for soliciting.

Local ordinances. A county, city, township, or village would retain discretion to adopt an ordinance or enforce an existing ordinance that relates to aggressive solicitation.

FISCAL IMPACT:

To the extent that House Bill 5103 results in a greater number of convictions, it could have an indeterminate fiscal impact on the state and on local units of government. The fiscal impact would depend on the number of people who are held responsible for state civil infractions and fined. Increases in applicable fines would benefit local libraries, which are the constitutionally designated recipients of such revenues. Civil infraction penalties would increase revenues going to the state Justice System Fund, which supports various justice-related endeavors in the judicial branch, and the departments of State Police, Corrections, and Health and Human Services. Also, the bill would have an indeterminate fiscal impact on the judiciary and local court funding units. The fiscal impact would depend on how the provisions of the bill affected caseloads and related administrative costs.

Depending on the number of people that have actually been charged for begging in a public place, House Bill 5104 could result in a decrease in costs for local units of government related to county jails and/or local misdemeanor probation supervision. The costs of local

incarceration in county jails and local misdemeanor probation supervision vary by jurisdiction. There could also be a decrease in penal fine revenues which would decrease funding for local libraries, which are the constitutionally designated recipients of those revenues.

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