

Legislative Analysis



INCREASE PENALTIES FOR MANDATED REPORTERS

Phone: (517) 373-8080

<http://www.house.mi.gov/hfa>

Senate Bill 874 (S-2) as passed by the Senate

Senate Bill 880 (S-1) as passed by the Senate

Sponsor: Sen. Rick Jones

House Committee: Law and Justice

Senate Committee: Judiciary

Complete to 4-25-18

Analysis available at

<http://www.legislature.mi.gov>

BRIEF SUMMARY:

Senate Bill 874 would amend the Child Protection Law to do the following:

- Add the elements of *having direct knowledge of the nature of suspected child abuse or child neglect* and *willfully failing to report* to what constitutes the crime of failing to report suspected child abuse or child neglect by a mandated reporter.
- Distinguish between mandated reporters who are volunteers and those who are required to report based on their paid employment.
- Increase the criminal penalty for failing to report as required from a misdemeanor to a two-year felony, establish a minimum fine, and apply the penalty only to persons who are required to report due to their paid employment.
- Establish an enhanced penalty for repeat offenses of failing to report for employed mandated reporters.
- Add a criminal penalty for volunteers required to report who fail to do so.

Senate Bill 880 would add the new felony penalties for failure to report suspected child abuse or child neglect by a mandatory reporter to the sentencing guidelines chapter of the Code of Criminal Procedure.

The bills are tie-barred to one another, meaning that neither bill could become law unless the other were also enacted. Each bill would take effect 90 days after being enacted.

DETAILED SUMMARY:

Under current law, certain professionals are required under the Child Protection Law to report suspicions of child abuse or neglect to Children's Protective Services (CPS).¹ A mandated reporter must make a verbal report to CPS immediately and provide a written report within 72 hours of the suspicion of abuse or neglect. Failure to do so may subject the mandated reporter to civil and criminal liability.

Senate Bill 874 would amend Section 13 of the Child Protection Law. Currently under that section, a person who is required to report an instance of suspected child abuse or neglect and who knowingly fails to do so is guilty of a misdemeanor punishable by imprisonment for not more than 93 days or a fine of not more than \$500.

¹ Currently, mandated reporters include the following: physicians, nurses, teachers, clergy, law enforcement officers, social workers, school administrators, school counselors, regulated child care providers, dentists and registered dental hygienists, physician's assistants, licensed emergency medical care providers, audiologists, medical examiners, psychologists, those in the counseling professions, certain employees of the Friend of the Court, and certain employees of the Michigan Department of Health and Human Services.

The bill would amend this provision to specify instead that a person who *by his or her paid employment* is required to report an instance of child abuse or *child neglect*, who *has direct knowledge of the nature of the suspected child abuse or child neglect*, and who *willfully and knowingly fails to report* is guilty of a *felony* punishable by imprisonment for not more than 2 years or a fine of *not less than \$1,000 or more than \$5,000*, or both. (Italics denote proposed changes.) A second or subsequent offense would be a felony punishable by imprisonment for not more than 7 years or a fine of not more than \$15,000, or both.

A person who is a volunteer required by the Child Protection Law to report an instance of suspected child abuse or child neglect, who has direct knowledge of the nature of the abuse or neglect, and who willfully and knowingly fails to report would, under the bill, be guilty of a misdemeanor punishable by imprisonment for not more than 1 year or a fine of not more than \$1,000, or both.

MCL 722.633

Senate Bill 880 would amend the sentencing guidelines portion of the Code of Criminal Procedure to specify that failure to report child abuse or child neglect by a paid employee would be a Class G felony against a person with a maximum term of imprisonment of 2 years. A second and subsequent offense would also be a Class G felony against a person, but with a maximum term of imprisonment of 7 years.

MCL 777.15g

FISCAL IMPACT:

Senate Bill 874 would have an indeterminate fiscal impact on the state and on local units of government. Information is not available on the number of paid employees or volunteers who would be convicted under provisions of the bill. New felony convictions would result in increased costs related to state prisons and state probation supervision. In fiscal year 2017, the average cost of prison incarceration in a state facility was roughly \$37,000 per prisoner, a figure that includes various fixed administrative and operational costs. State costs for parole and felony probation supervision averaged about \$3,600 per supervised offender in the same year. New misdemeanor convictions would increase costs related to county jails and/or local misdemeanor probation supervision. The costs of local incarceration in a county jail and local misdemeanor probation supervision vary by jurisdiction. The fiscal impact on local court systems would depend on how provisions of the bill affected caseloads and related administrative costs. Increased costs could be offset, to some degree, depending on the amount of additional court-imposed fee revenue generated. Any increase in penal fine revenue would increase funding for local libraries, which are the constitutionally designated recipients of those revenues.

Senate Bill 880 amends sentencing guidelines and would not have a direct fiscal impact on the state or on local units of government.

Legislative Analyst: Susan Stutzky
Fiscal Analyst: Robin Risko

■ This analysis was prepared by nonpartisan House Fiscal Agency staff for use by House members in their deliberations, and does not constitute an official statement of legislative intent.