



Senate Fiscal Agency
P. O. Box 30036
Lansing, Michigan 48909-7536

BILL ANALYSIS



Telephone: (517) 373-5383
Fax: (517) 373-1986

House Bill 5660 (Substitute H-2 as reported without amendment)
House Bill 5661 (Substitute H-2 as reported without amendment)
House Bill 5794 (Substitute H-1 as reported without amendment)
Sponsor: Representative Leslie Love (H.B. 5660)
Representative Brandt Iden (H.B. 5661)
Representative Diana Farrington (H.B. 5794)

House Committee: Law and Justice
Senate Committee: Judiciary

CONTENT

House Bill 5660 (H-2) would amend Section 145c of the Michigan Penal Code to prescribe enhanced felony penalties for a child sexually abusive activity or material offense that involved a prepubescent child or sadomasochistic abuse or bestiality, or included a video or more than 100 images, if the offender knew or had reason to know that the depicted child was a child (referred to in the table below as an aggravated offense). The enhanced penalties would apply to the following:

- A person who persuaded, coerced, or knowingly allowed a child to engage in a child sexually abusive activity for the purpose of producing child sexually abusive material, or who produced, reproduced, or financed the activity or material.
- A person who distributed or promoted child sexually abusive material or activity.
- A person who knowingly possessed or knowingly accessed child sexually abusive material.

Table 1 below shows the current penalties and the proposed enhanced penalties.

Table 1

Offense	Current Maximum	Proposed Maximum for Aggravated Offense
Production/Financing	20 years/\$100,000	25 years/\$125,000
Distribution/Promotion	7 years/\$50,000	15 years/\$75,000
Possession/Access	4 years/\$10,000	10 years/\$50,000

House Bill 5794 (H-1) would amend the Penal Code to prescribe a mandatory minimum sentence of five years' imprisonment if a person were convicted of a second or subsequent offense under Section 145c.

House Bill 5661 (H-2) would amend the sentencing guidelines in the Code of Criminal Procedure to include the felonies proposed by House Bill 5660 (H-2).

MCL 750.145c (H.B. 5660)
Proposed MCL 750.145g (H.B. 5794)
MCL 777.16g (H.B. 5661)

Legislative Analyst: Jeff Mann

FISCAL IMPACT

House Bill 5660 (H-2) would have a negative fiscal impact on State and local government. Enhanced felony penalties could increase resource demands on community supervision, jails, and correctional facilities. The average cost to State government for felony probation supervision is approximately \$3,024 per probationer per year. For any increase in prison intakes, in the short term, the marginal cost to State government is approximately \$3,764 per prisoner per year. Any increase fine revenue increases funding for public libraries.

House Bill 5794 (H-1) would have a negative fiscal impact on the State and no fiscal impact on local government. For any increase in years sentenced, in the short term, the marginal cost to State government is approximately \$3,764 per prisoner per year.

House Bill 5661 (H-2) would have no fiscal impact on local government and an indeterminate fiscal impact on the State, in light of the Michigan Supreme Court's July 2015 opinion in *People v. Lockridge*, in which the Court ruled that the sentencing guidelines are advisory for all cases. This means that the addition to the guidelines under the bills would not be compulsory for the sentencing judge. As penalties for felony convictions vary, the fiscal impact of any given felony conviction depends on judicial decisions.

Date Completed: 6-11-18

Fiscal Analyst: Ryan Bergan