

# Legislative Analysis

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## **3RD- & 4TH-DEGREE CHILD ABUSE**

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

### **House Bills 4486 and 4487 as introduced**

**Sponsor: Rep. Peter J. Lucido**

**Committee: Law and Justice**

**Complete to 10-23-17**

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

### **SUMMARY:**

House Bill 4486 would create an enhanced penalty for a subsequent conviction for 3<sup>rd</sup>- or 4<sup>th</sup>-degree child abuse. House Bill 4487 would place the new felony penalties within the sentencing guidelines. The bills would take effect 90 days after enactment.

Currently, a person is guilty of 3<sup>rd</sup>-degree child abuse for knowingly or intentionally causing physical harm to a child *or* knowingly or intentionally committing an act that under the circumstances poses an unreasonable risk of harm or injury to a child and that results in physical harm to a child. A violation is a felony punishable by up to 2 years' imprisonment.

A person is guilty of 4<sup>th</sup>-degree child abuse if an omission or reckless act causes physical harm to a child *or* the person knowingly or intentionally committed an act that under the circumstances poses an unreasonable risk of harm or injury to a child, regardless of whether physical harm results. The violation is a misdemeanor punishable by up to 1 year's imprisonment.

House Bill 4486 would amend the Michigan Penal Code to make the penalty for a second or subsequent offense of 3<sup>rd</sup>-degree child abuse imprisonment for not more than 5 years and increase the penalty for a second or subsequent offense of 4<sup>th</sup>-degree child abuse from a misdemeanor to a felony with up to 2 years' imprisonment. The current penalties for either crime would apply only to a first offense.

House Bill 4487 would place the new felony penalties within the sentencing guidelines portion of the Code of Criminal Procedure. Specifically, the bill clarifies that the penalties currently in the sentencing guidelines for 3<sup>rd</sup>- and 4<sup>th</sup>-degree child abuse apply only to a first offense and that the maximum term of imprisonment for a second or subsequent offense for either crime would be 5 years for 3<sup>rd</sup>-degree child abuse and 2 years for 4<sup>th</sup>-degree child abuse.

The bill is tie-barred to House Bill 4486, meaning that it would not take effect unless House Bill 4486 were also enacted.

MCL 750.136b (HB 4486)

MCL 777.16g (HB 4487)

## **FISCAL IMPACT:**

House Bill 4486 would have an indeterminate fiscal impact on state and local correctional systems and on local courts. The number of people who would be convicted under provisions of the bill is unknown. The bill would likely decrease misdemeanor convictions and increase felony convictions as subsequent violations of 4<sup>th</sup>-degree child abuse shift from misdemeanors to felonies. The bill could also result in increased sentences for 3<sup>rd</sup>-degree child abuse subsequent offenses.

Felony convictions would result in increased costs related to state prisons and state probation supervision. In fiscal year 2016, the average cost of prison incarceration in a state facility was roughly \$36,000 per prisoner, a figure that includes various fixed administrative and operational costs. State costs for parole and felony probation supervision averaged about \$3,500 per supervised offender in the same year.

By comparison, misdemeanor convictions 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 courts would depend on how provisions of the bill affected caseloads and related administrative costs.

House Bill 4487 amends sentencing guidelines and would not have a direct fiscal impact on the state or on local units of government.

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