



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



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

Senate Bills 69 and 70 (as introduced 2-16-23)  
Sponsor: Senator Lana Theis (S.B. 69)  
Senator Ruth Johnson (S.B. 70)  
Committee: Civil rights, Judiciary, and Public Safety

## **CONTENT**

Senate Bill 69 would amend the Public Health Code to do the following:

- Prohibit a licensee or registrant from performing on a patient who was a minor a medical treatment, procedure, or examination that involved vaginal or anal penetration unless it was within the scope of the licensee's or registrant's practice, a medical assistant or another licensee was present in the room, and the minor's parent or guardian gave his or her consent.
- Specify circumstances under which the prohibition would not apply, such as the treatment or procedure was necessary and associated with a medical emergency.
- Prescribe felony penalties for a violation.
- Require the Department of Licensing and Regulatory Affairs (LARA) to create a standardized consent form to be used by a licensee or registrant who provided to a minor patient a medical treatment, procedure, or examination that involved vaginal or anal penetration.
- Require LARA to make the form publicly available on its website.

Senate Bill 70 would amend the sentencing guidelines in the Code of Criminal Procedure to include the felonies proposed by Senate Bill 69.

Proposed MCL 333.16279 & 333.16279a (S.B. 69)  
MCL 777.13n (S.B. 70)

## **BRIEF RATIONALE**

According to testimony, some physicians have adopted standards for making certain they have consent before undertaking medical procedures on a minor that involve vaginal or anal penetration; however, some physicians do not have standards in place for acquiring this consent. Some people believe that the power imbalance in a patient-physician relationship puts a patient at the mercy of a physician's presumed expertise and unwilling to disagree to a procedure. Accordingly, it has been suggested that physicians be required to get formal consent from a minor patient's guardian before undertaking such medical procedures.

## **PREVIOUS LEGISLATION**

*(Please note: The information in this summary provides a cursory overview of previous legislation and its progress. It does not provide a comprehensive account of all previous legislative efforts on the relevant subject matter.)*

Senate Bills 69 and 70 are reintroductions of Senate Bills 226 and 227 from the 2021-2022 Legislative Session. Senate Bills 226 and 227 passed the Senate but received no further action in the House.

Legislative Analyst: Tyler P. VanHuyse

## **FISCAL IMPACT**

Senate Bill 69 would have a negative fiscal impact on the State and local government. New felony arrests and convictions under the bill could increase resource demands on law enforcement, court systems, community supervision, jails, and correctional facilities. However, it is unknown how many people would be prosecuted under provisions of the bill. The average cost to State government for felony probation supervision is approximately \$4,200 per probationer per year. For any increase in prison intakes the average annual cost of housing a prisoner in a State correctional facility is an estimated \$45,700. Per diem rates range from a low of \$98 to a high of \$192 per day, depending on the security level of the facility. Any associated increase in fine revenue would increase funding to public libraries.

Senate Bill 70 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: 4-24-23

Fiscal Analyst: Joe Carrasco, Jr.

SAS\Floors2324\sb69

This analysis was prepared by nonpartisan Senate staff for use by the Senate in its deliberations and does not constitute an official statement of legislative intent.