

Definitions

Vulnerable child: A non-emancipated child having one of the disabilities/impairments defined in the bill.

Emancipated: A legal status in which a child younger than 18 is recognized as an adult, no longer under the custody of a parent or guardian.

Congenital: Present from birth (speaking of a disease, trait, or physical abnormality).

Subdural hemorrhage or hematoma: Bleeding that occurs within the skull but outside the brain, often as a result of a severe head injury.

Affirmative defense: A fact or set of facts other than those alleged by the prosecutor which, if proven by the defendant, defeats or mitigates the legal consequences of the defendant's otherwise unlawful conduct; a justification for the defendant having committed the accused crime.

History

Michigan's laws and Penal Code define who constitutes a "vulnerable adult" and call for enhanced penalties for abuse of or crimes against vulnerable adults, but there is no similar provision for vulnerable children in Michigan law. In 2019 aides from an autism center in Adrian were caught physically abusing children under their care. Due to the victims being nonverbal, they could not "express what happened to them so that a jury could understand the mental harm that was caused to them" (Lenconnect.com article, "2 enter pleas in autism center abuse case"). This caused difficulty in fully establishing the adequate charge and punishment for the abusers, calling into question whether Michigan's laws concerning child abuse are sufficient in the case of vulnerable or nonverbal children.

Summary

HB 4071 would amend existing child abuse laws to define "vulnerable child" and increase the maximum punishments for child abuse toward a vulnerable child. Second degree child abuse (felony) would increase from 10 years to 15 years, third degree child abuse (felony) would increase from 2 years to 3 years, and fourth degree child abuse (currently a misdemeanor) would become a felony with the maximum sentence for first offenders increasing from 1 year to 2 years.

The bill also adds several definitions of disabilities and impairments relevant to the definition of the term "vulnerable child."

ArgumentsSupporting Arguments

- Children with disabilities are at a higher risk of abuse, maltreatment, and neglect, just as people with disabilities in general are at a higher risk of violent victimization, therefore the penalty should be tougher to better protect these children and to deter those who might abuse them.
- Michigan has laws concerning the abuse of vulnerable adults; the same protection should be extended to vulnerable children.

Opposing Arguments

- The subset of children at highest risk of abuse is actually those aged from birth to 3 years old. The bill does not provide any protection for these at-risk children.
- All children are vulnerable; why not increase sentencing for all child abuse?
- Some studies show that harsher sentencing may not, in fact, deter committal of crime. If longer sentences do not deter people from committing abuse against vulnerable children, the financial impact of this bill would be higher as the number of abusers would be the same but their time spent in government facilities would be longer.