

Legislative Analysis



FOIA EXEMPTION FOR ANONYMOUS PARTY IN CERTAIN CIVIL ACTIONS

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Senate Bill 73 as passed by the Senate
Sponsor: Sen. Sue Shink
House Committee: Criminal Justice
Senate Committee: Civil Rights, Judiciary, and Public Safety
Complete to 6-11-23

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

SUMMARY:

Senate Bill 73 would amend the Freedom of Information Act (FOIA) to exempt disclosure of information that would reveal the identity of an anonymous party in certain civil actions.

The act establishes procedures and requirements for the disclosure of public records by all public bodies in Michigan. It creates two classes of public records: those subject to disclosure and those exempt. In general, records are subject to disclosure unless specifically exempted.

Senate Bill 73 would create an exemption from disclosure for any information that would reveal the identity of a party who proceeds anonymously in a civil action in which that party alleges that they were the victim of *sexual misconduct*.

Sexual misconduct would mean sexual contact or penetration under the pretext of medical treatment; female genital mutilation of a child; accosting, enticing, or soliciting a child for an immoral purpose; child pornography; or criminal sexual conduct in the first, second, third, or fourth degree or assault with intent to commit criminal sexual conduct in the first, second, or third degree, regardless of whether the conduct resulted in a criminal conviction.

The bill also would amend a provision that allows investigating records compiled for law enforcement purposes to be exempted from disclosure by adding that this exemption would be allowed if it would disclose the identity of a party, who, as described above, proceeds anonymously in a civil action in which that party alleges that the party was the victim of sexual misconduct.

For the purposes of securing the party's anonymity, that party or that party's designee could provide written notification of the civil action and the wish to remain anonymous to any law enforcement agency that has investigating records. The law enforcement agency would have to retain a copy of the notification in its files with those records.

MCL 15.243

BACKGROUND:

Senate Bill 73 is a reintroduction of House Bill 4856 of the 2021-22 legislative session and House Bill 4378 of the 2019-20 legislative session and is similar to House Bill 5797 of the 2017-18 legislative session. Each of those bills was passed by the House of Representatives.

FISCAL IMPACT:

The bill would have no fiscal impact on the state or local units of government.

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■ 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.