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## BILL ANALYSIS



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Senate Bills 963 and 965 (as introduced 6-26-24)  
Sponsor: Senator Sylvia Santana (S.B. 963)  
Senator Darrin Camilleri (S.B. 965)  
Committee: Labor

Date Completed: 10-8-24

**CONTENT**

**Senate Bill 965 would amend the Youth Employment Standards Act to do the following:**

- **Prohibit an employer from discriminating against an employee or minor who exercised a right granted under the Act.**
- **Allow the Director of the Department of Labor and Economic Opportunity (LEO) to impose an administrative fine of up to \$5,000 for each violation of the Act.**
- **Allow the Director of LEO to bring judicial actions against an employer who violated the Act, including an action that required a violating employer to pay an employed minor an award for a violation.**
- **Prescribe misdemeanor and felony penalties for violations of the Act.**
- **Prohibit a deviation from standards under the Act that allowed a minor to work between 12 AM and 5 AM or work in a hazardous or injurious occupation.**

**Senate Bill 963 would amend the sentencing guidelines in the Code of Criminal Procedure to include the penalties proposed by Senate Bill 965.**

Senate Bill 963 is tie-barred to Senate Bill 965, which is described in greater detail below.

**Enforcement Authority**

Currently, LEO must enforce the Act and assist in its prosecution. The Department has the authority to enter and inspect any place where a minor may be employed and access work permits, age certificates, or other proof of age and time records of the employer, and other records that may aid in the enforcement of the Act. The bill would assign these powers and duties to the Director of LEO.

Under the bill, an employer could not discharge, discipline, retaliate against, or otherwise discriminate against an employee or minor who exercised a right granted under the Act on behalf of the employee or minor or another employee or minor.

If a person violated the Act or a rule promulgated under the Act, the Director could impose an administrative fine of up to \$5,000 for each violation, after providing notice of and an opportunity for a hearing conducted in the same manner as a contested case under the Administrative Procedures Act. The Director would have to notify the Attorney General if a person did not pay an administrative fine. The Attorney General would have to bring a civil action to recover the administrative fine and costs and fees. An administrative fine collected or recovered would have to be deposited in the General Fund.

In addition to any other action authorized under the Act, the Director could bring an action to do the following:

- Obtain a declaratory judgment that a method, act, or practice was in violation of the Act.
- Obtain an injunction against an employer who was engaging in, or about to engage in, a method, act, or practice that violated the Act.
- Obtain a judgment that required an employer that violated the Act to pay to each minor who was employed in violation of the Act an award.

If a violation resulted in a minor being unable to continue employment with the employer, an award would have to be an amount greater than or equal to the minor's hourly wage rate at the time of the violation multiplied by the average number of hours the minor worked during the four-week period immediately preceding the violation multiplied by four.

### Penalties

Currently, except as provided below, a person who employs a minor in violation of the Act, violates the Act or a rule promulgated under the Act, or obstructs LEO in the enforcement of the Act is guilty of a misdemeanor punishable by imprisonment for up to one year, or a fine of not more than \$500, or both. A person who employs, permits, or suffers a minor in violation of Section 12a is guilty of a misdemeanor punishable by imprisonment for up to one year, or a fine of not more than \$2,000, or both.<sup>1</sup> A person who commits a second offense under Section 12a is guilty of a misdemeanor punishable by imprisonment for up to two years or a fine of not more than \$5,000, or both. A person who commits a third or subsequent violation of Section 12a is guilty of a felony punishable by imprisonment for up to 10 years or a fine of up to \$10,000, or both. The bill would modify these provisions as described below.

Instead, under the bill, except for more serious offenses, an employer or an agent of an employer who employed a minor in violation of the Act, violated the Act or a rule promulgated under the Act, or obstructed the Director in the enforcement of the Act would be guilty of a crime punishable as follows:

- For a first offense, a misdemeanor punishable by imprisonment for up to one year, a fine of up to \$5,000, or both.
- For a second offense, a felony punishable by imprisonment for up to two years, a fine of up to \$25,000, or both.
- For a third or subsequent offense, a felony punishable by imprisonment for up to five years, a fine of not more than \$50,000, or both.

In addition, if a minor who was the subject of an offense described above were killed or suffered great bodily harm while performing work for the minor's employer, the employer or employer's agent would be guilty of a felony punishable as follows:

- For a first offense, the court could sentence the employer or employer's agent to imprisonment for up to five years and would have to impose a fine of between \$50,000 and \$500,000.
- For a second offense, the court could sentence the employer or employer's agent to imprisonment for up to 10 years and would have to impose a fine of between \$50,000 and \$500,000.

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<sup>1</sup> Section 12a specifies that a minor may not be employed in an occupation that involves a cash transaction subject to the Act after sunset or 8 PM, whichever is earlier, at a fixed location unless in the presence of an adult who works at or owns the establishment.

- For a third or subsequent offense, the court could sentence the employer or employer's agent to imprisonment for up to 20 years and would have to impose a fine of between \$50,000 and \$500,000.

The bill specifies that the imposition of a fine, penalty, or other sanction under the Act would not affect any other right or remedy provided for by law.

### Rules and Deviations

Currently, LEO must promulgate rules prescribing standards not inconsistent with the Act as to the working conditions, safety, health and personal well-being of minors in various types of employment. The bill would require LEO to promulgate rules to implement the Act, as well.

The Act requires the Director of LEO to grant deviations from established standards or from hours by employment when it is determined to be in the best interests of the minor and the community. The Director must prescribe the procedures for applying and issuing deviations. The bill would subject these provisions to the provisions below.

Under the bill, the Director could not grant a deviation if the deviation allowed any of the following:

- A minor to be employed between 12 AM and 5 AM.
- A minor to be employed in, about, or in connection with an occupation that was hazardous or injurious to the minor's health or personal well-being.

MCL 409.103 et al. (S.B. 965)  
777.14b (S.B. 963)

Legislative Analyst: Alex Krabill

### **FISCAL IMPACT**

#### **Senate Bill 963**

The bill 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 bill 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.

#### **Senate Bill 965**

The bill likely would create administrative costs for LEO in the form of rule promulgation (or amending the existing administrative code for Youth Employment Standards), review of deviation requests, and enforcement of the updated rules, which could require LEO's assistance in conjunction with the Attorney General.

Amending the existing administrative code to conform with the language of the bill would be a cost that LEO likely could absorb. Currently, LEO can issue deviations, but because the language of the bill is more restrictive than current statutory language, it is likely more deviations would be requested. It is possible that LEO would need one, or several, additional full-time equivalents (FTEs) to cover the cost of increased deviation requests.

The bill would have an indeterminate but likely negative fiscal impact on the State and local governments related to enforcement. 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 \$5,600 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 \$48,700. Per diem rates range from \$100 to \$431 per day (average per diem is \$135), depending on the security level of the facility. Any associated increase in fine revenue would increase funding to public libraries.

Alternatively, the bill likely would create revenue to the General Fund in the form of increased fines for violations of the Act. Fine amounts would be substantially increased, particularly for repeated violations. The amount of this revenue is indeterminate.

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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.