



**House
Legislative
Analysis
Section**

House Office Building, 9 South
Lansing, Michigan 48909
Phone: 517/373-6466

**IMPERSONATING A POLICE
OFFICER**

**House Bill 4781 (Substitute H-3)
House Bill 4782 (Substitute H-3)
First Analysis (1-31-02)**

**Sponsor: Rep. Alan Sanborn
Committee: Criminal Justice**

THE APPARENT PROBLEM:

In recent years, there apparently have been numerous incidents statewide of individuals impersonating police officers. Sometimes, the incidents have involved people who for unknown reasons want to act like a police officer but have no intention of harming anyone. However, there are those who impersonate law enforcement personnel with the intention of committing crimes. Over the past few years, people have reported being robbed and assaulted, including attempted rape, by people posing as police officers.

Since most people would believe and trust a person who portrays himself or herself as an officer of the law, it is felt that victims of a criminal posing as an officer are particularly vulnerable. Though it is a crime to impersonate a law enforcement officer, the penalty is only a misdemeanor punishable by up to one year in jail or a \$500 fine. There have been past, unsuccessful, legislative attempts to increase the penalty for this crime. In light of the breach of public trust that impersonators cause, and the injury that can be inflicted on an unsuspecting public, it has been recommended once again to increase the penalties for impersonating a law enforcement officer.

Similarly, it is a misdemeanor to impersonate any public officer or employee and prepare, issue, serve, execute, or further the operation of legal processes such as summons, warrants, subpoenas, liens, etc. (a third or subsequent offense is a felony). However, just as some individuals portray themselves as police officers for criminal purposes, there are situations in which an individual could impersonate a governmental employee or elected official for personal gain or for criminal purposes. Especially since the events of September 11, 2001, security for public buildings has increased, and many governmental buildings are closed to the general public. A person posing as a state, municipal, or court employee, or elected official, could gain access to otherwise restricted areas. Some feel that it would

be prudent to also increase the penalties for posing as a public employee who had law enforcement or regulatory duties, and also to increase penalties for impersonating an elected official.

THE CONTENT OF THE BILLS:

House Bill 4781 would amend the Michigan Penal Code to increase the penalties for impersonating a police officer, public employee, or elected official and House Bill 4782 would add the corresponding sentencing guidelines to the Code of Criminal Procedure. Specifically, the bills would do the following:

House Bill 4781. Currently, impersonating a law enforcement officer, conservation officer, or coroner is a misdemeanor punishable by up to one year imprisonment or a fine of not more than \$500. The bill would amend the Michigan Penal Code (MCL 750.215) to specify instead that a person who is not a peace officer, public employee with law or regulatory enforcement duties, or an elected official could not perform the duties of these professions without authorization or represent to another person that he or she was a peace officer, public employee with law or regulatory enforcement duties, or an elected official for any unlawful purpose. "Public employee" would mean a person employed by the state, a municipality, a department, board, agency, institution, commission, court, authority, division, council, college, university, school district, intermediate school district, special district, or other public entity of this state or a municipality, but would not include an elected official. A violation would be a misdemeanor punishable by not more than one year imprisonment, a fine of not more than \$500, or both.

In addition, a person who violated the above prohibition with intent to do one or more of the following would be guilty of a felony punishable by imprisonment for not more than four years:

House Bills 4781 and 4782 (1-31-02)

- gain entry to or remain in a residence, building, structure, facility, or other property (or attempt either action);

- commit or attempt to commit a crime; or

- attempt to or gain access to a person less than 18 years of age or a vulnerable adult. “Vulnerable adult” would be defined as a person age 18 or older who, due to age, developmental disability, mental illness, or disability (whether or not a court had determined that the person was an incapacitated individual in need of protection) lacks the cognitive skills required to manage his or her property.

Further, if a person violated the previous provision to commit or attempt to commit a sexual assault (including assault with intent to commit first or second degree CSC) or any other crime that resulted in serious injury or death to another individual, he or she would be guilty of a felony punishable by imprisonment for not more than ten years.

A court could order a sentence imposed under any of these provisions to be served consecutively to any term of imprisonment imposed for another violation arising from the same transaction. In addition, an individual could be charged with, convicted of, or punished for any other violation of law committed while he or she violated the bill’s provisions.

As used in the bill, “peace officer” would mean a police officer of the state or a political subdivision, including, but not limited to, a Department of State Police motor carrier; a police officer of a junior college, college, or university authorized by the respective governing board to enforce state law and the rules and ordinances of the particular institution; a conservation officer of the Department of Natural Resources, the Department of Environmental Quality, or the United States Department of the Interior; a sheriff, deputy sheriff, or constable; or a peace officer of a duly authorized police agency of the U.S., including, but not limited to, an agent of the Department of Secret Service or Department of Justice. An “elected official” would be an individual elected to any of the following:

- an office established by the state constitution;
- a public office of a municipality; or
- a department, board, agency, institution, commission, court, authority, division, council, college, university, school district, intermediate

school district, or other public entity of this state or municipality.

House Bill 4782 would amend the Code of Criminal Procedure (MCL 777.16I) to specify that impersonating a peace officer to commit, or attempt to commit, a crime would be a Class F felony against public safety with a four-year maximum sentence of imprisonment. Impersonating a peace officer to commit or attempt to commit criminal sexual conduct or crime resulting in serious injury or death would be a Class D felony with a ten-year maximum sentence of imprisonment. The bill is tie-barred to House Bill 4781.

FISCAL IMPLICATIONS:

Any sentences imposed under the bills could run consecutively to another sentence arising out of the same occurrence. Thus, according to the House Fiscal Agency, the bills could increase state or local correctional costs, depending on how they affected charging practices, numbers of convictions, and length of time served. Any increase in the collection of penal fine revenues would go to local libraries. (1-29-02)

ARGUMENTS:

For:

Though it has long been a crime to impersonate a police officer, realistic costumes, flashing lights, sirens, and fake badges are easier to acquire. This makes it more difficult for a trusting public to identify an imposter from a legitimate law enforcement official. But the danger isn’t just because the public trusts the police; under current laws, drivers must pull over when signaled by a police car, identification may be asked to be shown, questions can be asked as part of police investigations, and so on. This makes the public particularly vulnerable to an imposter who would use the trappings of law enforcement as an opportunity to rob, assault, batter, or even rape an unsuspecting person. A clear message needs to be sent that such behavior will result in a stiff penalty. The increased penalties under the bills should give prosecutors the tools necessary to protect the public. In addition, the discretion of the courts to order a sentence imposed under the bills to be served consecutively to any other charges brought (such as for criminal sexual conduct, assault and battery, larceny, arson, etc.) would get these criminals off the street and protect the public for a greater number of years.

For:

Though there is current law prohibiting the impersonation of public employees and elected and appointed public officials, it applies to impersonating those professions for the purpose of preparing or serving various legal documents such as summons, warrants, liens, and subpoenas. Such documents are generally used as a means of exercising or acquiring jurisdiction over a person or property. House Bill 4781 differs in that it would provide stiffer penalties for criminal behaviors such as sexual assault and larceny, and using the impersonation to gain access to a building or residence. It would pertain to those who impersonate public employees whose job duties entail law enforcement or regulatory enforcement components and to elected officials.

This is important for several reasons. There are individuals who act independently to commit a crime for their own purposes, and impersonating public employees such as state or city inspectors, court personnel, and others could allow access to property and personal information that would be otherwise inaccessible. It also means that they could gain the confidence of minors or vulnerable adults for the sole purpose of committing a crime against those persons, such as larceny or a sexual assault. However, since the events of September 11, 2001, it is difficult not to see the growing potential for terrorists and saboteurs to impersonate governmental employees – and even elected officials – to gain access to buildings and individuals in order to further their cause through violent means. Whether the person violating the provisions of House Bill 4781 is an individual acting alone for his or her own reasons, or whether part of an organization's deliberate plan to disrupt governmental functions, the increased penalties will give the courts greater options to find a penalty that fits the crime.

Against:

Increasing the penalty for a crime does not deter most criminals. In addition, as penalties are increased and longer sentences are handed down by the courts, corrections costs are sure to rise.

Response:

Harsh penalties, even the death penalty, do not always act as a deterrent for crimes of passion. However, impersonating a law enforcement officer, public employee, or elected official for a criminal purpose is hardly a crime of passion – it is a crime that is planned out in advance. It also is a crime that takes advantage of the public's trust in officials who are supposed to be protectors. Besides, the bills are increasing maximum penalties, not establishing

mandatory minimums. If someone uses the impersonation of a police officer, elected official, or certain public employees to commit a particularly heinous crime, the courts need the discretion to give a sentence appropriate to that crime.

POSITIONS:

A representative of the Police Officers Association of Michigan indicated support for the bills. (1-29-02)

A representative of the Department of State Police indicated support for the bills. (1-29-02)

Analyst: S. Stutzky

■ This analysis was prepared by nonpartisan House staff for use by House members in their deliberations, and does not constitute an official statement of legislative intent.