

Legislative Analysis



FAILURE TO REPORT A DEAD BODY

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Senate Bill 231 (Substitute H-2)
Sponsor: Sen. Tonya Schuitmaker

Senate Bill 380 with committee amendment
Sponsor: Sen. Dave Hildenbrand

House Committee: Judiciary
Senate Committee: Judiciary

First Analysis (12-2-12)

BRIEF SUMMARY: Senate Bill 231 would make the failure to report the discovery of a dead body to authorities a misdemeanor offense. Failing to report a dead body in order to cover up a death would be a felony. Senate Bill 380 would place the felony penalty within the sentencing guidelines.

FISCAL IMPACT: To the extent that the bill results in a greater number of misdemeanor or felony convictions, it would increase costs on state and local correctional systems. The average cost of prison incarceration in a state facility is roughly \$34,000 per prisoner per year, a figure that includes various fixed administrative and operational costs. State costs related to parole and felony probation supervision average about \$2,400 per supervised offender per year. The local costs of incarceration in a county jail and misdemeanor probation supervision vary by jurisdiction. Any increase in penal fine revenues would increase funding for local libraries, which are the constitutionally-designated recipients of those revenues.

THE APPARENT PROBLEM:

Even with extensive penal laws that prohibit and punish a wide array of conduct, situations occasionally occur where prosecutors are hard pressed to find an existing law that fits a person's bad action. For example, in recent years, persons who discovered their roommates had died failed to immediately report the deaths to authorities, instead using the situations for their own personal gain. In one case, the roommate of a woman who died from a drug overdose called that woman's parents and told them their daughter was in need of financial assistance and to send money. In another, the body was wrapped in saran wrap in the home where the person died while others in the home continued to collect and cash the Social Security checks of the deceased. More recently, a woman in Jackson County continued to cash the disability checks of her boyfriend for nine months after he died. Investigators found him in the living room covered with a sheet in the recliner in which he had died.

Though extorting money from someone's parents under false pretenses or cashing another person's Social Security checks is against the law, prosecutors were surprised that

failing to report the death of an individual is not specifically addressed in statute. Some cases don't involve fraudulent acts, but failure to report a death in a timely manner can impede an investigation by destroying or compromising evidence. Some feel that this gap in the law should be closed.

THE CONTENT OF THE BILLS:

Senate Bill 231 would amend the Public Health Code (MCL 333.2841) to specify that a person who discovers the body of an individual that he or she knows or has reason to know is dead and fails to inform a law enforcement agency, a funeral home, or a 9-1-1 operator of the discovery would be guilty of a misdemeanor punishable by imprisonment for not more than one year and/or a fine of not more than \$1,000. The bill would not apply to an individual who knows or has reason to know that an appropriate entity had been informed of the discovery of the body.

(The bill also would not apply to persons already required under Part 28 to report deaths in certain circumstances, such as funeral home directors.)

Under the bill, it would be a felony punishable by imprisonment for not more than five years and/or a fine of not more than \$5,000 to fail to report the dead body with the purpose of concealing the fact of the death or the cause of death.

A sentence imposed under Section 2841 could be imposed to run consecutively to any other sentence imposed for a conviction arising out of the same transaction. The bill would take effect April 1, 2013.

Senate Bill 380 would amend the sentencing guidelines portion of the Code of Criminal Procedure (MCL 777.13K) to specify that failure to inform law enforcement or a funeral home of discovery of a dead body with the purpose of concealing the fact or cause of death would be a Class E felony against the public order with a five-year maximum term of imprisonment. The bill is tie-barred to Senate Bill 231.

HOUSE COMMITTEE ACTION:

The House substitute amended Senate Bill 231 to address the issue of when multiple people discover a dead body so that if just one person called and reported the discovery, the others would not be subject to the penalties. Further, the substitutes for both bills changed the effective date to April 1, 2013.

BACKGROUND INFORMATION:

Senate Bill 231 is similar to House Bill 4349 of 2009 and House Bill 5277 of the 2007-2008 legislative session. Both bills passed the House but died in the Senate.

ARGUMENTS:

For:

Senate Bill 231 would close a gap in current law that currently does not provide any penalties for failing to notify authorities upon discovery of a dead body. Failing to report a dead body in a timely manner presents a health hazard as the body decomposes, and important evidence, such as the cause of death, can be lost or compromised. Reportedly, there have been several incidents in recent years within Michigan where a roommate, acquaintance, or relative did not report the death of a friend or relative for personal gain, or disposed of a body or concealed of the death for other reasons. In a well-publicized case a few years ago in another state, a woman hit a homeless man with her vehicle and he became embedded in her windshield. Not only did she fail to report the accident or to seek medical care for the injured man, she drove home with him still stuck in the windshield, parked in the garage, and even invited friends over to see him. This went on for several days until the man eventually died from his injuries.

The bill would give prosecutors another tool when deciding an appropriate charge for bad conduct. The bill would not apply to persons already required under the Public Health Code to report deaths in certain circumstances, such as funeral home directors. The bill would also not apply in situations in which multiple people have discovered a dead body, but only one or two place the call to the authorities. As always, prosecutors have discretion in deciding whether a person's actions reach the level of criminal activity; therefore, the bill should not result in charges being brought in situations where a child or person with mental impairment, or someone overcome by grief, failed to immediately report the death of a parent, caregiver, or spouse. However, the bill would allow prosecutors to go after those who use, or attempt to use, the untimely death of another for personal gain or to conceal other unlawful acts.

POSITIONS:

A representative of the Prosecuting Attorneys Association of Michigan testified in support of the bills.

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