



Senate Fiscal Agency
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BILL ANALYSIS



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House Bill 5257 (Substitute S-1)
House Bill 5258 (Substitute H-1 as passed by the House)
Sponsor: Representative Brandt Iden (H.B. 5257)
Representative James A. Lower (H.B. 5258)
House Committee: Communication and Technology
Senate Committee: Judiciary

Date Completed: 3-5-18

CONTENT

House Bill 5257 (S-1) would amend the Michigan Penal Code to prohibit and prescribe a felony penalty for knowingly possessing ransomware with the intent to introduce it into a computer or computer network without authorization.

House Bill 5258 (H-1) would amend the sentencing guidelines in the Code of Criminal Procedure to include the felony proposed by House Bill 5257 (S-1) as a Class F offense against public order, with a statutory maximum of three years.

House Bill 5258 (H-1) is tie-barred to House Bill 5257. Each bill would take effect 90 days after its enactment.

House Bill 5257 (S-1) is discussed in more detail below.

The bill would prohibit a person from knowingly possessing ransomware with the intent to use or employ it for the purpose of introducing it into another person's computer, computer data, computer system, or computer network without that person's authorization. A violation would be a felony, punishable by up to three years' imprisonment.

"Ransomware" would mean a computer or data contaminant, encryption, or lock that is placed or introduced without authorization into a computer, computer system, or computer network and that restricts access by an authorized person to a computer, computer data, computer system, or computer network in a manner that results in the person responsible for the placement or introduction of the ransomware demanding payment of money or other consideration to remove the computer contaminant, or restore access to the computer, computer system, computer network, or data. The term would not include authentication required to upgrade or access purchased content.

Proposed MCL 750.409b (H.B. 5257)
MCL 777.16t (H.B. 5258)

Legislative Analyst: Jeff Mann

FISCAL IMPACT**House Bill 5257 (S-1)**

The bill could have a negative fiscal impact on the State and local government. More felony arrests and convictions could increase demands on court systems, community supervision,

jails, and correctional facilities. The average cost to State government for felony probation supervision is approximately \$3,024 per probationer per year. For any increase in prison intakes, in the short term, the marginal cost to State government is approximately \$3,764 per prisoner per year. Any associated increase in fine revenue increases funding to public libraries.

House Bill 5258 (H-1)

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.

Fiscal Analyst: John Maxwell

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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.