

Legislative Analysis



DISARMING LAW ENFORCEMENT OFFICER OR CORRECTIONS OFFICER USING FORCE

Phone: (517) 373-8080
<http://www.house.mi.gov/hfa>

House Bill 4315 as introduced
Sponsor: Rep. Mike Mueller

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

House Bill 4316 as introduced
Sponsor: Rep. David LaGrand

Committee: Judiciary
Complete to 8-26-19

SUMMARY:

House Bill 4315 would create an enhanced penalty for disarming or attempting to disarm a law enforcement officer or corrections officer if violence is used or the disarmament or attempted disarmament causes the officer to become incapacitated. House Bill 4316 would place the felony penalties within the sentencing guidelines. Each bill would take effect 90 days after its enactment.

Under current law, an individual who disarms a peace officer or corrections officer is guilty of a felony if certain circumstances exist at the time the weapon is taken, such as knowing that the person is a peace officer or corrections officer. Taking a weapon other than a firearm is punishable by imprisonment for up to four years or a fine of up to \$2,500, or both. Taking a firearm is punishable by up to ten years in prison or a fine of up to \$5,000, or both.

House Bill 4315 would amend the Michigan Penal Code to add enhanced felony penalties to those described above for using force or violence or causing the peace officer or corrections officer to become incapacitated when taking or attempting to take a firearm. For the enhanced penalty to apply, all of the following circumstances would also have to exist at the time the person takes or attempts to take the firearm:

- The individual knows or has reason to believe that the person from whom the firearm is taken is a peace officer or corrections officer.
- The officer is performing his or her duties as a peace officer or corrections officer.
- The firearm is taken without the consent of the officer.
- The officer is authorized by his or her employer to carry the firearm in the line of duty.

Attempting to take the firearm using force or violence or causing incapacitation would be a felony punishable by imprisonment for up to 10 years or a fine of up to \$5,000, or both.

Taking a firearm using force or violence or causing incapacitation would be a felony punishable by imprisonment for up to 20 years or a fine of up to \$5,000, or both.

A current provision allowing the individual who disarms a peace officer or corrections officer to be charged with or convicted of any violation of law committed while disarming the officer, and a provision allowing a term of imprisonment imposed for a violation to run consecutively

to any term of imprisonment imposed for another violation arising from the same transaction, would also apply to the violations added by the bill.

However, *if* the peace officer or corrections officer were incapacitated or suffered an injury requiring medical attention as a result of the violation, the term of imprisonment *would be required* to be served consecutively to and preceding any term of imprisonment imposed for another violation arising from the same transaction. [As written, it is not clear as to the extent of an injury or the level of medical attention received that would trigger the requirement for consecutive sentencing.]

MCL 750.479b

House Bill 4316 amends the sentencing guidelines within the Code of Criminal Procedure to specify that the attempt to disarm a peace officer using violence or force or causing incapacitation would be a Class C felony against a person with a maximum term of imprisonment of 10 years. Disarming a peace officer or corrections officer using violence or force or causing incapacitation would be a Class B felony against a person with a 20-year maximum term of imprisonment.

The bill is tie-barred to HB 4315, which means that it cannot become law unless HB 4315 is also enacted.

MCL 777.16x

FISCAL IMPACT:

House Bill 4315 would have an indeterminate fiscal impact on the state and on local units of government. Information is not available on the number of persons whom might be convicted under provisions of the bill. New felony convictions would result in increased costs related to state prisons and state probation supervision. In fiscal year 2018, the average cost of prison incarceration in a state facility was roughly \$38,000 per prisoner, a figure that includes various fixed administrative and operational costs. State costs for parole and felony probation supervision averaged about \$3,700 per supervised offender in the same year. Those costs are financed with state general fund/general purpose revenue. Any fiscal impact on the judiciary and local court systems would depend on how provisions of the bill affect caseloads and related administrative costs. Any increase in penal fine revenues would increase funding for local libraries, which are the constitutionally designated recipients of those revenues.

House Bill 4316 is a companion bill to HB 4315 and amends sentencing guidelines. The bill would not have a direct fiscal impact on the state or on local units of government.

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