

Legislative Analysis



DISARMING LAW ENFORCEMENT OFFICER OR CORRECTIONS OFFICER USING FORCE

Phone: (517) 373-8080
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House Bill 4315 (H-2) as reported from committee
Sponsor: Rep. Mike Mueller

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

House Bill 4316 (H-3) as reported from committee
Sponsor: Rep. David LaGrand

Committee: Judiciary
Complete to 9-24-19

BRIEF SUMMARY: House Bill 4315 would create an enhanced penalty for disarming a law enforcement officer or corrections officer if violence is used or the disarmament causes the officer to suffer a serious or aggravated injury. House Bill 4316 would place the felony penalty within the sentencing guidelines. Each bill would take effect 90 days after its enactment.

FISCAL IMPACT: House Bill 4315 would have an indeterminate fiscal impact on state and local units of government. See **Fiscal Information**, below, for detailed discussion.

THE APPARENT PROBLEM:

A few weeks ago, an inmate being transported from a state prison to a court appearance leaped from the transport van while at a rest stop, pinning an officer against another vehicle in an attempt to grab the officer's gun. Though no one was seriously injured, and the inmate was unsuccessful in disarming the officer, such use of force and violence can result in significant injuries. This was not an isolated incident. Other current and former officers have stories of detainees and suspects going for their weapons.

Taking a police or corrections officer's firearm is a crime. However, the penalty is the same whether knocking a gun out of an officer's grip or using force or violence to overcome the officer and take possession of the firearm. Whether the weapon is used against the officer or not, the act of taking the weapon by force or violence can leave an officer seriously injured. Some feel that, if an officer sustains a serious or aggravated injury when being disarmed, the penalty should more appropriately fit the crime. Legislation has been offered to address the issue.

THE CONTENT OF THE BILLS:

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 imprisonment for up to ten years or a fine of up to \$5,000, or both.

House Bill 4315 would amend the Michigan Penal Code to add an enhanced felony penalty to those described above for using force or violence or causing the peace officer or corrections officer to suffer a serious or aggravated injury when taking a firearm. For the enhanced penalty to apply, all of the following circumstances would also have to exist at the time the person takes 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.

Taking a firearm using force or violence or causing a serious or aggravated injury 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 that allows an individual who disarmed a peace officer or corrections officer to be charged with or convicted of any violation of law committed while disarming the officer would also apply to the violation added by the bill.

A current provision that allows 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 situations in which a person used force or violence to disarm an officer. In addition, the bill would specify that if the peace officer or corrections officer suffered a serious or aggravated injury as a result of the violation, the term of imprisonment could be served consecutively to and preceding any term of imprisonment imposed for another violation arising from the same transaction.

Corrections officer is defined in the provision to mean a prison or jail guard or other employee of a jail or a state or federal correctional facility, who performs duties involving the transportation, care, custody, or supervision of prisoners.

Peace officer is defined to mean one or more of the following:

- A police officer of this state or a political subdivision of this state.
- A police officer of any entity of the United States.
- The sheriff of a county of this state or the sheriff's deputy.
- A public safety officer of a college or university who is authorized by the governing board of that college or university to enforce state law and the rules and ordinances of that college or university.
- A conservation officer of the Department of Natural Resources.
- A conservation officer of the United States Department of the Interior.

MCL 750.479b

House Bill 4316 would amend the sentencing guidelines in the Code of Criminal Procedure to specify that disarming a peace officer of a firearm using violence or force or causing a serious or aggravated injury is a Class C 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 INFORMATION:

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.

ARGUMENTS:

For:

Proponents argued that House Bills 4315 and 4316 are not about creating a deterrent to disarming a police or corrections officer, but about fitting the punishment to the crime. Currently, poking a weapon from an officer's hand carries the same penalty as pushing an officer down a flight of stairs or bludgeoning the officer until unconscious. Someone intent on avoiding arrest or detention will not pull a punch to avoid a harsher sentence. The bills are about establishing justice for officers sworn to uphold the public safety and corrections officers trying to maintain security and safety for other inmates and prisoners in correctional facilities, jails, and lockups. Should an officer incur a serious injury when being disarmed, the perpetrator would receive a harsher penalty than what current law provides.

Against:

No arguments in opposition to the bills were offered in committee.

POSITIONS:

The following entities indicated support for the bills:

- Department of State Police (8-27-19)
- Michigan Corrections Organization (9-10-19)
- Michigan Court Officers, Deputy Sheriffs Association (8-27-19)
- Michigan Sheriffs' Association (8-27-19)
- Police Officers Association of Michigan (8-27-19)
- Prosecuting Attorneys Association of Michigan (8-27-19)

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