

Legislative Analysis



DEFEND THE GUARD ACT

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

House Bill 4058 as introduced
Sponsor: Rep. Steven Johnson
Committee: Military, Veterans and Homeland Security
Complete to 3-15-21

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

SUMMARY:

House Bill 4058 would amend the Michigan Military Act to add a new section, to be known and cited as the Defend the Guard Act, that would prohibit the release of the Michigan National Guard into active duty combat without congressional approval.

Under the bill, the Michigan National Guard and any member of the Michigan National Guard could not be released from Michigan into *active duty combat* unless the United States Congress has passed an *official declaration of war* or has taken an official action under clause 15 of section 8 of Article I of the United States Constitution to explicitly call forth the state militia to execute the laws of the union, repel an invasion, or suppress an insurrection. The governor would have to take all actions necessary to comply with the requirements of the new section.

Active duty combat would mean performing any of the following active services in the service of the United States:

- Participation in an armed conflict.
- Performance of a hazardous service.
- Performance of a duty under conditions simulating war.
- Performance of a duty through an instrumentality of war.

Official declaration of war would mean an official declaration of war made by the United States Congress under clause 11 of section 8 of Article I of the United States Constitution.

Proposed MCL 32.703

FISCAL IMPACT:

The bill would have no fiscal impact on the state or local units of government.

Legislative Analyst: Emily S. Smith
Fiscal Analyst: Michael Cnossen

■ 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.