



**House
Legislative
Analysis
Section**

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**PROHIBIT USE OF PUBLIC RECORD
TO COMMIT CRIME**

House Bill 5143

Sponsor: Rep. Paul Wojno

House Bill 5144

Sponsor: Rep. Jennifer Faunce

Committee: Criminal Justice

Complete to 5-4-02

A SUMMARY OF HOUSE BILLS 5143 AND 5144 AS INTRODUCED 10-4-01

House Bill 5143 would amend the Michigan Penal Code (MCL 750.492b) to prohibit the use of a public record to commit a crime. House Bill 5144 would place the corresponding sentencing guideline in the Code of Criminal Procedure (MCL 777.16x). House Bill 5144 is tied to House Bill 5143. Specifically, the bills would do the following:

House Bill 5143 would amend the Penal Code to prohibit a person from knowingly using a public record, or knowingly using information obtainable only through a public record, to commit or attempt to commit a crime. If a person violated this prohibition to commit a crime that is a misdemeanor, the person would be guilty of a misdemeanor punishable by imprisonment for not more than 93 days, a fine of not more than \$500, or both. If the underlying offense were a felony, the person would be guilty of a felony punishable by imprisonment for not more than five years, a fine of not more than \$10,000, or both.

“Person” would be defined in the bill as an individual, partnership, corporation, association, governmental entity, or other legal entity. “Public record” would mean that term as defined in Section 2 of the Freedom of Information Act. (The Freedom of Information Act defines “public record” as a writing prepared, owned, used, in the possession of, or retained by a public body in the performance of an official function, from the time it is created, but does not include computer software. “Public record” does not include records exempted from disclosure by Section 13 of the act. The judiciary, including the office of the county clerk and employees of the county clerk when acting in the capacity of clerk to the circuit court, is not included in the definition of a public body.)

House Bill 5144 would amend the Code of Criminal Procedure to specify that using a public record to facilitate or further a crime would be a Class E felony against the public trust with a five-year maximum term of imprisonment.

The bill would also reword the description of a violation of Section 483a(2)(b) of the penal code to read “withholding evidence, preventing report of crime, or retaliating for reporting crime”, and would reword the description of a violation of Section 483a(6)(b) to read “tampering with evidence or offering false evidence in case punishable by more than 10 years”. (Underlined text denotes changes.)

Analyst: S. Stutzky

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