



House Office Building, 9 South  
Lansing, Michigan 48909  
Phone: 517/373-6466

## ENDANGERING EMERGENCY RESPONSE WORKER

House Bill 5600 (Substitute H-1)  
House Bill 5601 as introduced  
First Analysis (2-20-02)

Sponsor: Rep. Mike Kowall  
Committee: Criminal Justice

### ***THE APPARENT PROBLEM:***

A recent incident involving an Oakland County Sheriff's deputy revealed a discrepancy in current law regarding endangering police officers.

In the summer of 2001, Oakland County Sheriff's deputies responded to a call reporting a fire at a multi-unit inn. As one of the deputies was evacuating residents from the burning building, he encountered a woman who was trying to ascend a stairway to an upper floor. The woman told the deputy that her baby was alone in a fourth floor room and attempted to squeeze past him. The deputy took her room keys and ordered her to evacuate the building. He then proceeded to the fourth floor, where, due to thick smoke, he had to crawl to the room. He searched the room, but found no baby. After the deputy reached safety, he discovered that the woman had reported a baby in her room as a ruse to retrieve her purse. The deputy, who was treated at the scene for smoke inhalation, later found that though the woman had endangered his life by lying about a baby in danger, she apparently had not violated any law.

Current law prohibits a person from obstructing or hindering a peace officer in the performance of his or her duties, but does not speak directly to certain actions that can place an officer at undue risk. Specifically, the Michigan Supreme Court recently ruled that lying to a police officer does not in and of itself constitute "obstructing and resisting" a police officer. In *People v Vasquez* [465 MICH 83 (2001)], the majority opined that the "resisting and obstructing" statute "proscribes threatened, either expressly or impliedly, physical interference and actual physical interference with a police officer"; therefore, conduct such as lying "did not constitute threatened or actual physical interference."

However, the penal code does prohibit a person from endangering a firefighter and makes a violation a four-year felony offense. Legislation has been

offered to eliminate this discrepancy between firefighters and peace officers by making it illegal to endanger a law enforcement officer. In addition, some believe that endangering emergency medical service personnel (e.g., paramedics and emergency medical technicians) should also be criminalized. The legislation would include these first responders, as well.

### ***THE CONTENT OF THE BILLS:***

The bill is part of a package of bills to increase penalties for obstructing, resisting, or assaulting various law enforcement and court personnel. House Bill 5442, which has recently been passed by the House, would amend the Michigan Penal Code to expand a section relating to resisting and opposing certain law enforcement personnel to include endangering the designated individuals and would apply the provision not just to peace officers, but also to judges, magistrates, probation officers, parole officers, prosecutors, township treasurers, city attorneys, medical examiners, court employees, persons authorized to serve certain court documents, and persons authorized by law to maintain and preserve the peace but who are not peace officers. House Bill 5442 would not only prohibit resisting, opposing, or endangering any of the designated personnel, but also would make it a criminal offense to assault, beat, or wound any of the designated personnel other than peace officers. (House Bill 5440, which is also a part of the same package and has been passed by the House, would establish penalties for assaulting, beating, and wounding peace officers.) A violation of House Bill 5442 would be a misdemeanor punishable by up to two years imprisonment, a fine of not more than \$1,000, or both. However, if a violation caused bodily injury requiring medical attention or medical care to an individual described in the bill, it would be a felony offense punishable by up to four years imprisonment, a \$5,000 fine, or both.

House Bills 5600 and 5601 (2-20-02)

House Bill 5600 would amend one of the same sections of law as House Bill 5442 (MCL 750.479). The bill would incorporate most of the provisions that are contained in House Bill 5442 described above (a provision pertaining to allowing a sentence imposed under that bill to be served consecutively to any other sentence arising from the same transaction does not appear in House Bill 5600). However, House Bill 5600 would, in addition:

- Make it illegal to obstruct, resist, oppose, endanger, assault, beat, or wound any emergency medical personnel as described in the Public Health Code (MCL 333.20950) while they were performing their authorized duties.
- Specify that if a violation of the bill's provisions resulted in the infliction of serious injury on a person described in the bill, that a violator would be guilty of a felony punishable by up to ten years imprisonment or a fine of not more than \$10,000, or both.
- Specify that a violation that caused the death of one of the specified persons would be a felony offense punishable by up to 20 years imprisonment, a fine of not more than \$15,000, or both.

House Bill 5600 is tie-barred to House Bill 5442.

House Bill 5601 would amend the Code of Criminal Procedure (MCL 777.16x) to specify that reckless endangerment of an emergency response worker causing injury would be a Class F felony against a person with a four-year maximum sentence of imprisonment. The bill is tie-barred to House Bill 5600.

### **BACKGROUND INFORMATION:**

The House recently passed a bill package that would amend the Michigan Penal Code to, among other things, increase penalties for causing bodily injury to peace officers and other governmental officers and prohibit behaviors that would impede a peace officer's criminal investigation. The bill package would also place corresponding sentencing guidelines in the Code of Criminal Procedure. In regard to the recent state supreme court ruling that lying to a police officer does not constitute resisting or obstructing, House Bill 5444 would make it a misdemeanor offense to knowingly provide false or misleading information to a peace officer in the performance of his or her duties. (For more information, see the House Legislative Analysis Section's analysis of House Bills 5440 – 5444 dated 1-31-02.)

### **FISCAL IMPLICATIONS:**

Fiscal information is not available.

### **ARGUMENTS:**

#### ***For:***

First responders – police, firefighters, and emergency medical technicians and paramedics – are trained to handle dangerous situations. Saving people from drowning, from fires, and responding to other emergencies is a potentially dangerous part of their jobs. Yet, these brave men and women do not hesitate to put their lives on the line for the public good. Unfortunately, there are those who would, for selfish or criminal reasons, take advantage of a first responder's commitment to save others.

Though it is illegal to knowingly and willfully endanger a firefighter, there is no corresponding law to prohibit or punish those who deliberately place a peace officer or paramedic in harm's way (as the woman in the Oakland county case did.) The bill would remove this discrepancy by making it a crime to knowingly and willfully endanger peace officers and emergency response workers.

#### ***For:***

House Bill 5600, together with House Bill 5442, would increase protection to many governmental and court personnel. Under these bills, behaviors that resulted in injuries to designated personnel would carry penalties identical to penalties established in House Bill 5440 for inflicting injuries to peace officers. These enhanced penalties will give judges and prosecutors the discretion to seek and impose appropriate penalties for endangering and injuring those who work in the courts, who are hired by the courts to serve legal documents such as subpoenas, certain local governmental officials, and others who serve to maintain and preserve peace in our communities but who are not peace officers. In settings where emotions run high, it is not uncommon for process servers to be attacked, for probation or parole officers to be assaulted, for court personnel to be threatened or attacked, or for shootings to occur in courtrooms and courthouses. As one assistant prosecutor noted, "[t]he nature of our job is conflict." Hopefully, tougher penalties will act as a deterrent for those considering endangering or attacking any of the designated persons, and will act as appropriate punishment for those who do carry out attacks on citizens trying to work for the public good.

**Response:**

Rather than pass another bill, a simpler solution would be to amend House Bill 5442 to include emergency response personnel and to add the enhanced penalties for inflicting serious injury to or causing the death of persons.

**Against:**

It would appear that, since the events of last September 11<sup>th</sup>, people may be over-reacting by creating enhanced penalties for behaviors that are already addressed by law. House Bill 5600 would apply enhanced penalties for inflicting serious injury to or causing the death of a wide range of governmental and court employees or even contract employees such as process servers; in essence, it would extend to these workers the same treatment currently provided to peace officers. Where it does make sense to create enhanced penalties to increase protection to individuals such as police officers and emergency response personnel – those who face dangerous situations or place their lives on the line to save others on a regular basis – it can be argued that current laws regarding assault, assault and battery, reckless endangerment, and manslaughter and murder are sufficient to address these other situations.

**Response:**

Though these designated persons are not peace officers, they are still an integral part of the process to maintain and preserve peace and order. Performance of their job duties also upholds and enforces the legal system, and also places these individuals in situations conducive to acts of violence or endangerment. They deserve to work in a safe environment, and so deserve the deterrent effects that this legislation could provide.

**Against:**

House Bill 5601, which contains the sentencing guidelines for a felony offense under House Bill 5600, doesn't seem to match the sentencing provisions in that bill.

**Response:**

The House Committee on Criminal Justice adopted and reported a substitute bill for House Bill 5600 that changed the penalty structure. Reportedly, a substitute bill for House Bill 5601 that would reflect the changes to the penalty provisions contained in House Bill 5600 was not ready in time for committee consideration but is likely to be offered on the House floor.

**POSITIONS:**

The Department of State Police supports the bills. (2-19-02)

The Oakland County Prosecutor's Office supports the bills. (2-19-02)

The Oakland County Sheriff's Office supports the bills. (2-19-02)

The Prosecuting Attorneys Association of Michigan (PAAM) supports the concept of the bills. (2-19-02)

Analyst: S. Stutzky

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