

Legislative Analysis



FALSE OR MISLEADING CRIME INFORMATION

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House Bill 5026 as enrolled
Public Act 104 of 2004
Sponsor: Rep. Gary Woronchak

House Committee: Criminal Justice
Senate Committee: Judiciary

Second Analysis (2-25-05)

BRIEF SUMMARY: The bill would expand the current false crime reporting provisions in the Michigan Penal Code to make it a crime to intentionally cause a false report of the commission of a crime to be made, and to include false reports made to 9-1-1 operators and other persons legally authorized to receive reports of crimes (rather than just to specified law enforcement personnel). The bill would also place threats of poisoning in the code. The bill would take effect July 1, 2004.

FISCAL IMPACT: The bill is unlikely to have a significant fiscal impact even though it could potentially result in additional violations of the penal code's provisions and therefore impact revenue earmarked for local libraries and/or state and local correctional costs.

THE APPARENT PROBLEM:

Many law enforcement agencies employ civilian personnel, and sometimes contract with other agencies, to provide dispatch services and to take crime reports. According to a representative from the Oakland County prosecutor's office, if a person makes a false crime report to one of these non-law enforcement personnel, it is not prosecutable under current law. The Michigan penal code prohibits the false reporting of crimes, and establishes penalties for such offenses, but the prohibition applies only to reports made to a member of the Michigan state police, a sheriff or deputy sheriff, a local police officer, or any other Michigan peace officer. Legislation has been introduced to close this loophole.

THE CONTENT OF THE BILL:

The Michigan Penal Code prohibits a person from intentionally making a false report of the commission of a crime to a member of the Michigan state police, a sheriff or deputy sheriff, a local police officer, or any other Michigan peace officer, knowing the report to be false. It is a misdemeanor offense punishable by not more than 93 days imprisonment and/or a fine of up to \$500 to falsely report a crime that is a misdemeanor and a felony punishable by not more than four years imprisonment and/or a fine up to \$2,000 to falsely report a crime that is a felony.

The bill would amend the code (MCL 750.411a) to also prohibit a person from intentionally causing a false report of the commission of a crime to be made. Additionally, the bill would change the current reference to law enforcement officials and expand the reference to include others who may lawfully receive crime reports. Under the bill, it would be a crime to make a false report of a crime to a peace officer, state or local police agency, 9-1-1 operator, or any other governmental employee or contractor, or employee of a contractor, who was authorized to receive reports of a crime.

It is also a felony offense to knowingly make a false report (and communicate that false report to any person) of a violation or attempted violation of chapter XXXIII of the code (regarding explosives), section 327 (death due to explosives), or Section 328 (bomb placed in a building that causes death of a person). The bill would include sections 397a (harmful object placed in food) and 436 (mingling poisonous substances in food, water, or medications), and would expand the provision to prohibit the causing of the communication of the false report to be made to another person knowing that the report was false.

Furthermore, it is a felony to threaten to violate Chapter XXXIII, Section 327, or Section 328. The bill would include poisoning threats and would expand the provision to prohibit causing the communication of a threat to be made to another person.

In addition, the court can order a person convicted of making a false report to pay to the state or local unit of government the cost of responding to such a report, including the use of police or fire emergency vehicle teams. The bill would cite the costs found in Section 1f of chapter IX of the Code of Criminal Procedure, which deals with court-ordered reimbursements.

(The Michigan penal code defines a “peace officer” as a state or local police officer, a police officer of any entity of the U.S., a county sheriff or his or her 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, or a state or federal conservation officer.)

ARGUMENTS:

For:

Many law enforcement agencies use the services of civilians to act as dispatchers or in other capacities in which the civilian takes reports of crimes. While current law prohibits the making of false crime reports to state police troopers, sheriffs and their deputies, police officers, and peace officers, the statute does not specifically address the civilians who also take crime reports. Because of this, prosecutors are not able to charge someone under this statute who calls in, or otherwise makes, a false report of a crime. Reportedly, the provision has been interpreted very literally by the courts. Therefore, prosecutors have requested that the statute be amended to specifically include 9-1-1 operators and other nonpolice officers (including contract employees) who may be authorized to take crime reports within the scope of their employment.

In addition, a person who caused the false reporting of a crime to be reported to the police or other authorized individual would also be subject to the bill's penalties. For instance, a person who ran out of a building and told a passerby that the building was on fire or that someone with a gun was inside, etc., could be prosecuted under the bill's provisions if the passerby or another individual called 9-1-1. In such a situation, the person who placed the call would not be prosecuted because he or she would not have known that the report was false, and therefore could not have intentionally made a false report.

Further, the bill would make the both the threat of and the false report of placing a harmful substance in food (needles, etc.) and mingling poison in food, water supplies, or medications, or threatening to commit one of these acts, a felony offense. In light of recent events, and the potential for terrorist threats to disrupt the safety of the state's food and water supplies, the bill would provide courts with an adequate penalty structure to properly punish such heinous crimes.

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■ 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.