

Senate Fiscal Agency
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SFA**BILL ANALYSIS**

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Senate Bill 117 (Substitute S-2 as reported)
Senate Bill 118 (Substitute S-1 as reported)
Sponsor: Senator Alan L. Cropsey (Senate Bill 117)
Senator Alan Sanborn (Senate Bill 118)
Committee: Judiciary

Date Completed: 2-25-03

RATIONALE

In Michigan and across the country, there apparently have been numerous incidents of individuals impersonating police officers. These individuals, for unknown reasons, may want to appear to be police officers but have no intention of harming anyone or perpetrating a further offense. At other times, however, someone will impersonate a law enforcement officer with the intention of committing a crime. Perhaps the most notorious example of police impersonation involved the late Ted Bundy, a serial murderer who kidnapped and killed numerous women and girls in several states and eventually was executed in Florida. One victim of an attempted kidnapping identified Bundy as the man who claimed he was a police officer and tried to handcuff her. In Michigan, some have theorized that the so-called Oakland County child killer, who kidnapped and murdered four children in the 1970s, may have impersonated a police officer to gain the children's trust.

Although definitive statistics about the frequency of police impersonation are not available, anecdotal evidence suggests that it has long been a problem and that police impersonation may be on the rise. For instance, a Florida man accused of sexual misconduct reportedly passed himself off as a police officer in order to make a presentation to school children; a Macomb County man apparently used a blue flashing light to pull over drivers on the expressway; a Pontiac man reportedly posed as a sheriff's deputy in order to defraud area businesses; and two men in California claimed they were police officers in order to extort money from immigrants.

Although impersonating a police officer is a misdemeanor under Michigan law, some

people believe that the statutory language prohibiting impersonation should be updated and that felony penalties should apply if the offender impersonated an officer to commit or attempt to commit a crime.

CONTENT

Senate Bill 117 (S-2) would amend the Code of Criminal Procedure to include in the sentencing guidelines the felony offense of impersonating a peace officer, as proposed by Senate Bill 118 (S-1). That offense would be designated in the guidelines as a Class F felony against the public safety, with a statutory maximum sentence of four years' imprisonment.

Senate Bill 118 (S-1) would amend the Michigan Penal Code to revise the prohibition against impersonating a police officer or coroner; create a felony penalty for impersonating a peace officer to commit or attempt to commit a crime; and allow consecutive sentencing for the felony and another violation.

Senate Bill 117 (S-2) is tie-barred to Senate Bill 118. A more detailed description of Senate Bill 118 (S-1) follows.

Currently, under the Penal Code, it is a misdemeanor punishable by up to one year's imprisonment or a maximum fine of \$1,000 for a person falsely to do any of the following:

- Assume or pretend to be a sheriff, deputy sheriff, conservation officer, coroner, constable, police officer, or member of the Michigan State Police.
- Require a person to aid and assist him or her in any matter pertaining to the duty of

sheriff, deputy sheriff, conservation officer, coroner, constable, police officer, or member of the Michigan State Police.

-- Officiate in any office or place of authority.

The bill, instead, would prohibit an individual who was not a peace officer or a medical examiner from performing the duties of a peace officer or medical examiner without authorization; representing to another person that he or she was a peace officer or medical examiner for any unlawful purpose; or representing to another person that he or she was a peace officer or medical examiner with the intent to compel the person to do or refrain from doing any act against his or her will. Except as described below, a violation would be a misdemeanor punishable by up to one year's imprisonment, a maximum fine of \$1,000, or both.

It would be a felony punishable by up to four years' imprisonment, a maximum fine of \$5,000, or both, if the offender performed the duties of a peace officer, or represented to another person that he or she was a peace officer, in order to commit or attempt to commit a crime. A sentence imposed for this offense could be ordered to be served consecutively to any term of imprisonment imposed for another violation arising from the same transaction.

Under the bill, "peace officer" would mean any of the following:

- A police officer of this State or a political subdivision of the State or another state.
- A sheriff or sheriff's deputy of a county of this or another state.
- A police or public safety officer of a community college, college, or university who was authorized by the educational institution's governing board to enforce State law and the rules and ordinances of that educational institution.
- A conservation officer of the Department of Natural Resources, the Department of Environmental Quality, or the U.S. Department of the Interior.
- A Federal law enforcement officer.
- An investigator of the State Department of Attorney General.

MCL 777.161 (S.B. 117)
750.215 (S.B. 118)

ARGUMENTS

(Please note: The arguments contained in this analysis originate from sources outside the Senate Fiscal Agency. The Senate Fiscal Agency neither supports nor opposes legislation.)

Supporting Argument

Police officers hold a recognized position of authority in this society and most people trust and respect a person who identifies himself or herself as an officer of the law. Whether done to perpetrate a hoax, harass someone, commit a serious crime, or enter a facility or area that otherwise is inaccessible, when someone falsely claims police credentials it can portray law enforcement in a negative light and create a distrust of officers. Also, the victim of someone who falsely poses as a police officer may be particularly vulnerable. For instance, in a Macomb County case, a man has been accused of using a flashing blue light to stop a driver, and then assaulting and robbing the motorist. Also, a Pontiac man allegedly flashed a badge at area businesses to portray himself as a sheriff's deputy in order to cash bogus checks and to request other perks from the businesses. A more egregious case occurred in Florida, where a man who had a history of impersonating a police officer and had been accused of lewd conduct with two young boys apparently used fake police credentials to gain permission to speak and make a presentation to a group of elementary students.

The current misdemeanor penalty of up to one year's imprisonment or a maximum fine of \$1,000 is too lenient for someone who impersonates a police officer in order to victimize others. Someone who assaults and robs a motorist while posing as a police officer or who uses fake law enforcement credentials to defraud a business should pay a higher price for his or her crime. By establishing felony penalties and allowing a court to impose consecutive sentences, the bill would subject a person to a harsher sentence if he or she falsely represented himself or herself as a peace officer in order to commit or attempt a crime.

Supporting Argument

The bill would revise outdated language in the provision of the Penal Code that prohibits impersonating a law enforcement officer or coroner and would more clearly define the positions to which the violation would apply.

For instance, the term “medical examiner” now is widely used in place of “coroner”, and the bill’s definition of “peace officer” would encompass Federal law enforcement officers and conservation officers, as well as Department of Attorney General investigators. Also, rather than targeting someone who “falsely assumes or pretends” to be a law enforcement officer, which could include an actor portraying an officer on stage or a person attending a costume party, the bill is geared toward someone who falsely performed certain duties or represented himself or herself as a police officer for certain purposes.

Supporting Argument

In recent years, legislation has established felony penalties for impersonating a public utility employee or a Family Independence Agency worker for certain purposes (Public Act 159 of 1997 and Public Act 21 of 2001, respectively). Impersonating a peace officer for the purpose of committing a crime also can pose a serious danger to potential victims and should carry a felony penalty.

Legislative Analyst: Patrick Affholter

FISCAL IMPACT

The bills would have an indeterminate fiscal impact on State and local government.

There are no statewide data available to indicate how many offenders are currently convicted of a misdemeanor for impersonating a peace officer or to indicate how many offenders would be convicted under the revised provision. Offenders convicted of a misdemeanor would continue to receive up to one year’s imprisonment or a maximum fine of \$1,000, or under the bills, both. The cost of incarceration and probation for a misdemeanor is incurred by local units of government and varies by county.

There are no data available to indicate how many offenders would be convicted of a felony for impersonating a peace officer in order to commit a crime. It would be a Class F offense, for which an offender would be subject to a sentencing guideline minimum sentencing range from 0-3 months to 17-30 months. Local units would incur the cost of incarceration for offenders who received jail sentences in the lower minimum sentencing

range, while the State would incur the cost of felony probation at \$4.38 per day and incarceration for offenders who received longer minimum sentences in a State prison, at an average annual cost of \$25,000. For each offender convicted, sentenced to prison, and given the longest allowable minimum sentence, it would cost the State \$62,500. The bills also could increase State costs by allowing a court to order that an offender serve this sentence consecutively to any sentence received for the underlying crime.

Fiscal Analyst: Bethany Wicksall

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This analysis was prepared by nonpartisan Senate staff for use by the Senate in its deliberations and does not constitute an official statement of legislative intent.