



Senate Fiscal Agency  
P. O. Box 30036  
Lansing, Michigan 48909-7536



BILL ANALYSIS

Telephone: (517) 373-5383  
Fax: (517) 373-1986  
TDD: (517) 373-0543

House Bill 5026 (as reported with amendments)  
Sponsor: Representative Gary Woronchak  
House Committee: Criminal Justice  
Senate Committee: Judiciary

Date Completed: 4-27-04

### **RATIONALE**

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 city or village police officer, or any other Michigan peace officer, if the person knows that the report is false. Many 9-1-1 system operators are civilian employees, not peace officers, however, and many law enforcement agencies employ or contract with civilians to staff phones and dispatch officers to reported crimes. Since the Code's prohibition refers only to false crime reports made to law enforcement officers, prosecutors might not be able to charge a person who falsely reports a crime to civilian employees or contractors. Also, the prohibition does not expressly prohibit someone from causing a false crime report to be reported, as when one person requests another to call the police. It has been suggested that the prohibition be expanded to address these concerns.

In addition, it is a felony under the Code to make a false report or threat of certain explosives violations. Some people believe that making a false report or threat of a poisoning violation should be included in that provision.

### **CONTENT**

**The bill would amend the Michigan Penal Code to revise the prohibition against intentionally making a false crime report to a peace officer, by extending that provision to a false report made to others authorized to receive crime reports. The bill also would expand the prohibition against making a false report or threat of an**

**explosives offense, by including a false report or threat involving poisoning.** The bill would take effect on July 1, 2004.

#### False Crime Report

The bill would prohibit a person from intentionally making a false report of the commission of a crime, or intentionally causing a false crime report to be made, to any of the following, knowing that the report was false:

- A peace officer.
- A State or local police agency.
- A 9-1-1 operator.
- Any other governmental employee, contractor, or contractor's employee who was authorized to receive crime reports.

Under the Code, if the report is a false report of a misdemeanor, the violation is a misdemeanor punishable by up to 93 days' imprisonment, a maximum fine of \$500, or both. If the report is a false report of a felony, the violation is a felony punishable by up to four years' imprisonment, a maximum fine of \$2,000, or both. The bill would retain those penalties.

#### False Poisoning Report

The Code prohibits a person from knowingly making a false report of a violation or attempted violation of any of the following and communicating the false report to any other person:

- Chapter 33 (Explosives, Bombs, or Harmful Devices) of the Penal Code.
- Causing a death due to explosives (MCL 750.327).

- Causing a death due to placing explosives with intent to destroy a building or object (MCL 750.328).

The Code also prohibits threatening to violate those provisions and communicating the threat to any other person.

The bill would include in the offense knowingly making a false report or making a threat of the following violations:

- Placing a harmful object or substance in food or furnishing food that contains a harmful object or substance to another person (MCL 750.397a).
- Mingling poison or a harmful substance with food, drink, a nonprescription medicine, or a pharmaceutical product; placing poison or a harmful substance in a spring, well, reservoir, or public water supply; or maliciously informing another that a poison or harmful substance has been or will be placed in a food, drink, nonprescription medicine, pharmaceutical product, spring, well, reservoir, or public water supply, knowing the information to be false and that it is likely that the information will be disseminated to the public (MCL 750.436).

A first conviction is a felony punishable by up to four years' imprisonment, a maximum fine of \$2,000, or both; a second or subsequent conviction is punishable by up to 10 years' imprisonment, a maximum fine of \$5,000, or both. The bill would retain those penalties.

MCL 750.411a

## **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**

According to written testimony submitted to the Senate Judiciary Committee, the Oakland County prosecuting attorney's office twice has encountered situations in which false crime reports were made to 9-1-1 operators or others hired as dispatchers who were not peace officers. Since the reports were not made to police officers, as explicitly prohibited in the Penal Code, those making the false reports could not be

charged with that crime. False crime reports can result in the needless expenditure of law enforcement resources, possibly at the expense of others in need of immediate assistance, regardless of whether a police officer or civilian employee receives the report. Since law enforcement agencies and 9-1-1 systems increasingly use civilian employees or contractors to receive crime reports, the Code's prohibition against making a false crime report should be expanded to include reports made to those employees or contractors.

The bill also would extend the false crime report prohibition to a person who intentionally caused a false report of a crime to be made. For instance, a person who told another to call the police because a store was being robbed, knowing that not to be the case, could be charged with causing a false crime report to be made. The current prohibition does not cover such a scenario.

### **Supporting Argument**

It is a felony under the Penal Code knowingly to make a false report of certain explosives violations or threatening to commit those offenses. Those violations typically involve threatening to place a bomb in a building or public place or falsely reporting that a bomb has been or will be placed. Due to the seriousness of the violations, that felony also should apply to a poisoning or harmful substance violation, such as falsely reporting that a public water supply had been poisoned or threatening to poison the water supply. Both offenses can be considered terrorist acts, absorb considerable public resources, and potentially generate panic among individuals. The bill also would extend the violation to someone who caused the communication of a false report or threat, as it would with the general prohibition against making a false crime report.

Legislative Analyst: Patrick Affholter

## **FISCAL IMPACT**

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

According to the Department of Corrections Statistical Report, 310 offenders in 2001 were convicted of intentionally falsely reporting a crime. Of those, 28 received a

prison term, 42 received a jail term, and 240 received probation and/or a fine. There are no data to indicate how many additional offenders would be convicted under the proposed revisions. Local units of government incur the cost of misdemeanor probation and the cost of incarceration in a local facility, both of which vary by county. The State incurs the cost of felony probation at an average annual cost of \$1,800, and the cost of incarceration in a State facility at an average annual cost of \$28,000.

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.