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BILL ANALYSIS

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House Bill 5270 (Substitute H-1 as passed by the House)  
Sponsor: Representative Rick Jones  
House Committee: Judiciary  
Senate Committee: Judiciary

Date Completed: 12-12-05

### **CONTENT**

**The bill would amend the Michigan Penal Code to exempt a peace officer performing his or her duties from various prohibitions against intentionally pointing or aiming a firearm without malice, including violations in which a firearm is discharged and a person is injured or killed. The bill also would increase from 90 days to 93 days the maximum term of imprisonment for intentionally pointing or aiming a firearm without malice.**

The Code prohibits a person from intentionally, but without malice, pointing or aiming a firearm at or toward another person. A violation is a misdemeanor, with no specified penalty. (Under the Code, if a person is convicted of a misdemeanor and no punishment is specially prescribed, the offense is punishable by up to 90 days' imprisonment, a maximum fine of \$500, or both (MCL 750.504).) Under the bill, a violation would be punishable by up to 93 days' imprisonment and/or a maximum fine of \$500.

Under the Code, a person who does either of the following is guilty of a misdemeanor punishable by up to one year's imprisonment and/or a maximum fine of \$500:

- Discharges a firearm while it is intentionally but without malice aimed at or toward another person, without injuring another person.
- Maims or injures another person by discharging a firearm pointed or aimed intentionally but without malice at another person.

In addition, a person who wounds, maims, or injures another person by discharging a firearm that is pointed or aimed intentionally but without malice at another person is guilty of manslaughter if the wounds, maiming, or injuries result in death. (Under the Code, manslaughter is a felony punishable by up to 15 years' imprisonment, a maximum fine of \$7,500, or both (MCL 750.321).)

The bill specifies that each of the violations described above would not apply to a peace officer of this State or another state, of a local unit of government of this State or another state, or of the United States, performing his or her duties as a peace officer. "Peace officer" would mean that term as it is defined in Section 215 of the Code.

Under Section 215, "peace officer" means any of the following:

- A sheriff or deputy sheriff of a county of this or another state.
- An officer of a police department of a city, village, or township of this or another state.

- A marshal of a city, village, or township.
- A constable.
- An officer of the Michigan State Police.
- A conservation officer.
- A security employee employed by the State under Section 6c of Public Act 59 of 1935 (which allows the Director of the Department of State Police to authorize limited arrest powers for security personnel employed by the State for the protection of State facilities in Lansing and at the State Secondary Complex in Eaton County's Windsor Township).
- A motor carrier officer appointed under Section 6d of Public Act 59 of 1935 (which allows the State Police Director to appoint officers with limited arrest powers for motor carrier enforcement).
- A police officer or public safety officer of a community college, college, or university who is authorized by the governing board of the employing institution to enforce State law and the institution's rules and ordinances.
- A park and recreation officer commissioned under Section 1606 of the Natural Resources and Environmental Protection Act (NREPA).
- A State forest officer commissioned under Section 83107 of the NREPA.
- A Federal law enforcement officer.
- An investigator of the Department of Attorney General.

MCL 750.233 et al.

Legislative Analyst: Patrick Affholter

### **FISCAL IMPACT**

The bill would have little or no fiscal impact on State government and an indeterminate fiscal impact on local government. Between 2000 and 2003, nine offenders were convicted of discharging a firearm without malice that resulted in death, but there are no data to indicate how many of these offenders were peace officers. There also are no data to indicate how many offenders have been convicted of the other offenses, or how many of those offenders were peace officers. To the extent that the bill would result in fewer convictions due to the fact that peace officers could no longer be convicted of these offenses, State and local governments would incur reduced incarceration costs. However, to the extent that those convicted of aiming a firearm at another would be given longer sentences due to the bill, local governments would incur additional costs of incarceration in local facilities, which vary by county.

Fiscal Analyst: Lindsay Hollander

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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.