

Legislative Analysis



FAILURE TO REPORT A DEAD BODY

Mitchell Bean, Director
Phone: (517) 373-8080
<http://www.house.mi.gov/hfa>

House Bill 4349 as introduced
Sponsor: Rep. Richard LeBlanc
Committee: Judiciary

First Analysis (6-15-09)

BRIEF SUMMARY: The bill would make it a misdemeanor to fail to report the discovery of a dead body to a law enforcement agency or 9-1-1 operator.

FISCAL IMPACT: The bill's fiscal impact on local correctional systems would depend on how it affected the numbers of criminal convictions and severity of sentences. There are no data to indicate how many people might be convicted under the bill. The costs of any increase in misdemeanor convictions would fall to local units of governments; local costs could include jail and misdemeanor probation supervision, both of which vary by county. Any increase in penal fine revenues could benefit local libraries, which are the constitutionally-designated recipients of such revenues.

THE APPARENT PROBLEM:

Even with extensive penal laws that prohibit and punish a wide array of conduct, situations occasionally occur where prosecutors are hard pressed to find an existing law that fits a person's bad action. For example, in at least two situations, persons who discovered their roommates had died failed to immediately report the deaths to authorities, instead using the situations for their own personal gain. In one case, the roommate of a woman who died from a drug overdose called that woman's parents and told them their daughter was in need of financial assistance and to send money. In the other, the body was wrapped in saran wrap in the home where the person died while others in the home continued to collect and cash the Social Security checks of the deceased.

Though extorting money from someone's parents under false pretenses or cashing another person's Social Security checks is against the law, prosecutors were surprised that failing to report the death of an individual is not specifically addressed in statute. Some feel that this gap in the law should be closed.

THE CONTENT OF THE BILL:

House Bill 4349 would amend the Public Health Code by adding Section 2841 (MCL 333.2841) to require an individual who discovers the body of an individual that he or she knows or has reason to know is dead to immediately inform a law enforcement agency or 9-1-1 operator of the discovery. A person in violation of this subsection would be guilty of a misdemeanor punishable by imprisonment for up to one year and/or a fine of not more than \$1,000. The bill would take effect October 1, 2010. (The bill would not apply

to persons already required under the code to report deaths in certain circumstances, such as funeral home directors.)

BACKGROUND INFORMATION:

The bill is a reintroduction of House Bill 5277, which was passed by the House in the 2007-2008 legislative session.

ARGUMENTS:

For:

The bill would close a gap in current law that currently does not provide any penalties for failing to notify authorities upon discovery of a dead body. Failing to report a dead body in a timely manner presents a health hazard as the body decomposes, and important evidence, such as the cause of death, can be lost or compromised. Reportedly, there have been at least two, and possibly more, incidents where a roommate, acquaintance, or relative did not report the death of a friend or relative for personal gain.

The bill would give prosecutors another tool when deciding an appropriate charge for bad conduct. The bill would not apply to persons already required under the Public Health Code to report deaths in certain circumstances, such as funeral home directors. As always, prosecutors have discretion in deciding whether a person's actions reach the level of criminal activity; therefore, the bill should not result in charges being brought in situations where a child or person with mental impairment, or someone overcome by grief, failed to immediately report the death of a parent, caregiver, or spouse. However, the bill would allow prosecutors to go after those who use, or attempt to use, the untimely death of another for personal gain.

AGAINST:

Though committee testimony indicated the intent was to punish certain conduct on the part of individuals seeking to profit from an unreported death, there is nothing in the bill's language to tie the punishment to such behavior. As a result, the bill is overly broad and could be used in almost any situation in which law enforcement officials felt the report was not made in a timely manner.

POSITIONS:

The Prosecuting Attorneys Association of Michigan supports the bill. (6-15-09)

The Department of State Police indicated support for the bill. (6-10-09)

Legislative Analyst: Susan Stutzky
Fiscal Analyst: Marilyn Peterson

■ 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.