

PENALTIES FOR ASSAULT ON PUBLIC OFFICERS

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House Bill 4302 reported w/o amendment

Sponsor: Rep. Kimberly LaSata

Analysis available at

<http://www.legislature.mi.gov>

House Bill 4303 (reported as Substitute H-3)

Sponsor: Rep. Andy Schor

House Bill 4304 (reported w/o amendment)

Sponsor: Rep. Sam Singh

Committee: Law and Justice

Complete to 5-25-17

BRIEF SUMMARY: Together, the bills increase the penalty for an assault on court or local government personnel and officers that causes a serious injury; include a defense attorney, court reporter, and court recorder as persons to whom the penalties apply; and place the increased penalty within the sentencing guidelines.

The bills would take effect 90 days after enactment.

FISCAL IMPACT: The bills will have an indeterminate fiscal impact on state and local governments. See *Fiscal Information* below for more information.

THE APPARENT PROBLEM:

Two high-profile incidents in the summer of 2016 underscore the inherent dangers faced by public officers and employees, especially those whose professions involve appearances or attendance in courthouses. A Berrien County defendant, although handcuffed at the time, grabbed a deputy's gun as he was being moved from the courtroom to a holding cell. Two court bailiffs were killed and the deputy and a civilian suffered nonlethal gunshots before police officers responding to the incident killed the defendant. In Ingham County, a defendant waiting to hear the jury's verdict pulled a make-shift knife from his sleeve and lunged at the assistant prosecutor trying his case. The man was tackled by a detective from a local law enforcement agency and two court bailiffs, one of whom suffered a cut to the face. Had it not been for the quick action of these dedicated public servants, many more, including civilians, could have been killed or seriously injured.

As documented in a report by the National Center for State Courts, violent acts related to court cases have been rising despite the presence of increased courthouse security. (Fautsko, Timm, Berson, Steve, and Swenson, Steve, *Courthouse Security Incidents Trending Upward: The Challenges Facing State Courts Today, Future Trends in State Courts*, 2012).

Though Michigan law provides enhanced penalties for assaulting certain public officers and employees, the incidents from last summer highlighted that some professions were missing. In particular, an assault on a defense attorney, court reporter, or court recorder would not currently trigger the enhanced penalties. Further, because courtrooms should be a place of safety and sanctity where the rule of law can be fairly administered, some feel that the penalty for an assault that results in a serious injury should be increased.

THE CONTENT OF THE BILLS:

House Bills 4302 and 4303 each amend Section 479 of the Michigan Penal Code, Chapter LXX, entitled "Public Offices and Officers" (MCL 750.479). Currently, a person who assaults, batters, wounds, obstructs, or endangers certain municipal employees and officers is guilty of a felony. Penalties range from a maximum of two years in prison to 20 years, and/or a fine, depending on whether the victim was injured and the severity of those injuries, with the highest applying in cases of death.

Listed employees and public officers include a medical examiner, township treasurer, judge, magistrate, probation officer, parole officer, prosecutor, city attorney, court employee, court officer, and other officer or duly authorized person serving or attempting to serve or execute any process, rule, or order or who was otherwise acting in the performance of official duties. The penalties also apply to a person who assaults, batters, wounds, obstructs, or endangers an officer enforcing an ordinance, law, rule, order, or resolution of a city, town, or village board or council.

House Bills 4302 and 4303 both increase from 10 to 15 years the maximum term of imprisonment if a violation causes *serious impairment of a body function* to an individual described above. The maximum fine that could be imposed remains the same at \$10,000.

In addition, House Bill 4303 adds the following persons to the list of public officers and employees for whom assaulting would trigger the penalties under Chapter LXX: a defense attorney, court reporter, and court recorder.

House Bill 4304 amends the sentencing guidelines portion of the Code of Criminal Procedure to change the statutory maximum for a violation of 750.479(4) from 10 years to 15 years to conform to the change proposed by House Bills 4302 and 4303, to which it is tie-barred. (MCL 777.16x)

FISCAL INFORMATION:

HB 4302 and 4303: The bills would have an indeterminate fiscal impact on the state's correctional system and on local court systems. Information is not available on the number of persons that might be convicted under the provisions of the bills, but new felony convictions would result in increased costs related to state prisons and state probation supervision. In fiscal year 2016, the average cost of prison incarceration in a state facility was roughly \$36,000 per prisoner, a figure that includes various fixed administrative and operational costs. State costs for parole and felony probation supervision averaged about

\$3,500 per supervised offender in the same year. The fiscal impact on local court systems would depend on how the provisions of the bill affected caseloads and related administrative costs. Any increase in penal fine revenues would increase funding for local libraries, which are the constitutionally designated recipients of those revenues.

HB 4304 amends sentencing guidelines and does not have a direct fiscal impact on the state or on local units of government.

ARGUMENTS:

For:

Court security has vastly improved through the years. Yet, courtrooms can be places of high emotion when a verdict can result in an acquittal, a minor sentence, or even a life sentence without parole. In general, courtrooms are small to mid-size rooms with limited entrances and exits. Jurors are separated by the jury stall. Court staff have designated stations where they sit, and judges are prominently seated behind elevated desks. Thus, by this nature of design, it can be difficult for court employees and the attorneys defending or prosecuting cases to protect themselves. In an effort to deter violent conduct in courtrooms, especially against those whose employment requires daily or frequent involvement in court processes, enhanced penalties were created for those who would attack these workers. The bills do two simple things: first, they add several professions who should be included (defense attorneys, court reporters, and court recorders) and also increase—by five years—the maximum term of imprisonment if an assault on any of the listed professions results in serious impairment of a body function. Courtrooms, like hospitals, churches, and schools, need to be safe places, where those charged with enforcing the process of law can do their jobs without fear.

Response:

Chapter LXX of the Penal Code is entitled "Public Offices and Officers." Defense attorneys, though considered "officers of the court," are not necessarily public employees. Some may be appointed to serve indigent defendants and thus are paid by taxpayers, but many are privately retained. Further, increased penalties are not known for being an effective deterrent to crime, especially in highly emotional situations where a person may feel he or she has nothing left to lose. Incidents such as the ones in 2016 are infrequent, and current penalties appear to be sufficient to appropriately punish such violent acts.

POSITIONS:

A representative of the Prosecuting Attorneys Association of Michigan testified in support of the bills. (3-21-17)

The following entities indicated support for the bills on 3-21 or 5-16-17:

Office of Attorney General
Michigan Association of Counties
Michigan District Judges Association
State Court Administrative Office

Michigan Townships Association
Michigan State Police
Prosecuting Attorneys Association of Michigan

The ACLU of Michigan indicated opposition to the bills on 3-31 and 5-16-17.

Legislative Analyst: Susan Stutzky
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■ This analysis was prepared by nonpartisan House Fiscal Agency staff for use by House members in their deliberations, and does not constitute an official statement of legislative intent.