

# Legislative Analysis



## STATUTE OF LIMITATIONS FOR ARMED ROBBERY

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**House Bill 5010 (reported from committee w/o amendment)**

**Sponsor: Rep. Diana Farrington**

**Committee: Law and Justice**

**Complete to 2-21-18**

Analysis available at

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

*(Enacted as Public Act 148 of 2018)*

**BRIEF SUMMARY:** House Bill 5010 would amend the Michigan Code of Criminal Procedure to extend the statute of limitations for armed robbery and to toll it under certain circumstances.

**FISCAL IMPACT:** To the extent that the bill results in a greater number of convictions, due to extending the statute of limitations for armed robbery, it could increase costs on state and local correctional systems. New felony convictions could result in increased costs related to state prisons and state probation/parole supervision. In fiscal year 2017, the average cost of prison incarceration in a state facility was roughly \$37,000 per prisoner per year, a figure that includes various fixed administrative and operational costs. State costs for parole and felony probation supervision averaged about \$3,600 per supervised offender in the same year. Any increase in penal fine revenues would increase funding for local libraries, which are the constitutionally designated recipients of those revenues.

### **THE APPARENT PROBLEM:**

In armed robbery cases where DNA is left behind, an identification of the perpetrator is easy, as long as there is another sample to match it with. This other sample could take years to find, which is what the Clinton Township Police experienced firsthand. The police found and preserved DNA evidence from an armed robbery at a local gas station in 2005. However, the officers didn't discover a matching sample until after the current six-year statute of limitations for armed robbery. So, the newly identified perpetrator of the 2005 armed robbery incident could not be prosecuted for that crime, even with a DNA match. The sponsor of the bill hopes to remedy situations like this by extending the statute of limitations for armed robbery.

### **THE CONTENT OF THE BILL:**

Under current law, armed robbery falls under a catch-all limitations provision that allows an indictment to be found and filed within six years after the offense is committed.

House Bill 5010 would add armed robbery to a list of offenses, known as Brandon D'Annunzio's Law, whose statute of limitations is tolled if the identity of the individual who committed the offense is not known. Under the bill, the statute of limitations for armed robbery would be either:

- 10 years after the offense is committed.
- OR*
- If the offense is reported to a police agency within one year after the offense is committed and the individual who committed the offense is unknown, then 10 years after the individual is identified by his or her legal name.

The bill would take effect 90 days after its enactment.

MCL 767.24

## ***ARGUMENTS:***

### ***For:***

Supporters of the bill argue that the current punishment for armed robbery can result in life in prison. This is a substantial punishment, which reflects that the crime of armed robbery is also substantial and severe. As such, the statute of limitations also should recognize the severity of the crime and allow law enforcement officers the chance to hold perpetrators accountable.

Additionally, supporters of the bill believe that the crime of armed robbery is similar to the other crimes currently listed with a 10-year statute of limitations. Those other crimes include kidnapping, extortion, assault with intent to commit murder, attempted murder, manslaughter, and first-degree home invasion. Because the act of armed robbery is similar to these other crimes, it should have the same statute of limitations.

### ***Against:***

Critics of the bill argue that evidence can deteriorate over time, which makes a successful and just prosecution difficult. When more time passes after a crime has been committed, witnesses can forget details or even deceased before a trial. Additionally, DNA evidence isn't infallible and can become contaminated, especially as more time passes between the crime and the trial. Thus, an extension of the statute of limitations for armed robbery may not result in a just prosecution and could have severe, detrimental impacts on an accused perpetrator when evidence fades over time.

## ***POSITIONS:***

Representatives from the following organizations indicated support for the bill:

- Macomb County Prosecutor's Office. (11-7-17)
- Prosecuting Attorneys Association. (11-7-17)
- Clinton Township Police. (11-7-17)

A representative from the American Civil Liberties Union of Michigan indicated opposition to the bill. (11-7-17)

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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.