

# Legislative Analysis



## DISARMING LAW ENFORCEMENT OFFICER OR CORRECTIONS OFFICER USING FORCE

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

House Bill 4211 (H-1) as reported from committee  
Sponsor: Rep. Mike Mueller

Analysis available at  
<http://www.legislature.mi.gov>

House Bill 4212 (H-1) as reported from committee  
Sponsor: Rep. David LaGrand

Committee: Judiciary  
Complete to 3-23-21

**BRIEF SUMMARY:** House Bill 4211 would create an enhanced penalty for disarming a law enforcement officer or corrections officer using force or violence, or attempting to do so, and House Bill 4212 would place the felony penalty within the sentencing guidelines.

**FISCAL IMPACT:** House Bill 4211 would have indeterminate fiscal implications, and House Bill 4212 would not have a fiscal impact on state or local government. (See **Fiscal Information**, below, for a detailed discussion.)

### **THE APPARENT PROBLEM:**

Taking a police or corrections officer's firearm is a crime. However, the penalty is the same whether knocking a gun out of an officer's grip or using force or violence to overcome the officer and take possession of the firearm. Whether the weapon is used against the officer or not, the act of taking the weapon by force or violence can leave an officer seriously injured. Some feel that, if force or violence is used to disarm an officer, the penalty should more appropriately fit the crime. Legislation has been offered to address the issue.

### **THE CONTENT OF THE BILLS:**

Under current law, an individual who disarms a *peace officer* or *corrections officer* is guilty of a felony if certain circumstances exist at the time the weapon is taken, such as knowing that the person is a peace officer or corrections officer. Taking a weapon other than a firearm is punishable by imprisonment for up to four years or a fine of up to \$2,500, or both. Taking a firearm is punishable by imprisonment for up to ten years or a fine of up to \$5,000, or both.

*Peace officer* means one or more of the following:

- A police officer of this state or a political subdivision of this state.
- A police officer of any entity of the United States.
- The sheriff of a county of this state or the sheriff's deputy.
- A public safety officer of a college or university who is authorized by the governing board of that college or university to enforce state law and the rules and ordinances of that college or university.
- A conservation officer of the Department of Natural Resources.
- A conservation officer of the United States Department of the Interior.

***Corrections officer*** means a prison or jail guard or other employee of a jail or a state or federal correctional facility who performs duties involving the transportation, care, custody, or supervision of prisoners.

**House Bill 4211** would amend the Michigan Penal Code to add an enhanced felony penalty to the penalties described above for using force or violence while taking or attempting to take a firearm from a peace officer or corrections officer. For the enhanced penalty to apply, all of the following circumstances would also have to exist at the time the individual takes or attempts to take the firearm:

- The individual knows or has reason to believe that the person from whom the firearm is taken is a peace officer or corrections officer.
- The officer is performing his or her duties as a peace officer or corrections officer.
- The firearm is taken without the consent of the officer.
- The officer is authorized by his or her employer to carry the firearm in the line of duty.

Taking a firearm using force or violence would be a felony punishable by imprisonment for up to 20 years or a fine of up to \$5,000, or both.

A current provision that allows an individual who disarmed a peace officer or corrections officer to be charged with or convicted of any violation of law committed while disarming the officer would also apply to the violation added by the bill, as would a provision allowing a term of imprisonment imposed for disarming a peace officer or corrections officer to run consecutively to any term of imprisonment imposed for another violation arising from the same transaction.

MCL 750.479b

**House Bill 4212** would amend the sentencing guidelines in the Code of Criminal Procedure to provide that disarming a peace officer of a firearm using violence or force is a Class C felony against a person with a 20-year maximum term of imprisonment. The bill is tie-barred to HB 4211, which means that it cannot take effect unless HB 4211 is also enacted.

MCL 777.16x

Each bill would take effect 90 days after its enactment.

***BACKGROUND INFORMATION:***

The bills are similar to House Bills 4315 and 4316 of the 2019-20 legislative session.

***FISCAL INFORMATION:***

House Bill 4211 would have an indeterminate fiscal impact on the state and on local units of government and would depend on the number of persons who would be convicted under provisions of the bill. New felony convictions would result in increased costs related to state prisons and to state probation supervision. In fiscal year 2020, the average cost of prison incarceration in a state facility was roughly \$42,200 per prisoner per year, a figure that includes

various fixed administrative and operational costs. State costs for parole and felony probation supervision averaged about \$4,300 per supervised offender in the same year. Those costs are financed with state general fund/general purpose revenue. Any fiscal impact on the judiciary and local court systems would depend on how provisions of the bill affected court caseloads and the related administrative costs. Any increase in penal fine revenues would increase funding for public and county law libraries, which are the constitutionally designated recipients of those revenues.

House Bill 4212 is a companion bill to House Bill 4211 and amends sentencing guidelines to include disarming a peace officer of a firearm using violence or force. The bill would not have a direct fiscal impact on the state or on local units of government.

### ***ARGUMENTS:***

#### ***For:***

House Bills 4211 and 4212 are not about creating a deterrent to disarming a police or corrections officer, but about fitting the punishment to the crime. Currently, poking a weapon from an officer's hand carries the same penalty as pushing an officer down a flight of stairs or bludgeoning an officer until unconscious. Someone intent on avoiding arrest or detention will not pull a punch to avoid a harsher sentence. The bills are about establishing justice for officers sworn to uphold the public safety and corrections officers trying to maintain security and safety for other inmates and prisoners in correctional facilities, jails, and lockups. Should an officer be disarmed through the use of force or violence, the perpetrator would receive a harsher penalty than what current law provides.

#### ***Against:***

No arguments against the bills were offered.

### ***POSITIONS:***

The following entities indicated support for the bills:

- Michigan Association of Chiefs of Police (3-16-21)
- Police Officers Association of Michigan (3-9-21)
- Michigan Sheriffs' Association (3-9-21)

The Railroads Association indicated support for House Bill 4211. (3-9-21)

The following entities indicated opposition to the bills (3-9-21):

- ACLU of Michigan
- Safe and Just Michigan

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