

Legislative Analysis



DISARMING LAW ENFORCEMENT OFFICER OR CORRECTIONS OFFICER USING FORCE

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<http://www.house.mi.gov/hfa>

House Bill 4211 as introduced
Sponsor: Rep. Mike Mueller

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

House Bill 4212 as introduced
Sponsor: Rep. David LaGrand

Committee: Judiciary
Complete to 3-6-21

SUMMARY:

House Bill 4211 would create an enhanced penalty for disarming a law enforcement officer or corrections officer if violence is used or the disarmament causes the officer to suffer a serious or aggravated injury. House Bill 4212 would place the felony penalty within the sentencing guidelines.

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 or causing the peace officer or corrections officer to suffer a serious or aggravated injury when taking a firearm. For the enhanced penalty to apply, all of the following circumstances would also have to exist at the time the individual takes 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 or causing a serious or aggravated injury 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.

A current provision that allows 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 would also apply to situations in which a person used force or violence to disarm an officer. However, if the peace officer or corrections officer suffered a serious or aggravated injury as a result of the violation, the bill would allow the term of imprisonment to be served consecutively with and preceding 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 or causing a serious or aggravated injury 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.

FISCAL IMPACT:

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 or causing a serious or aggravated injury. The bill would not have a direct fiscal impact on the state or on local units of government.

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