

Legislative Analysis



ASSAULT OF EMPLOYEES OF A BUS SERVICE, STREET RAILWAY SERVICE, OR RAILROAD

Phone: (517) 373-8080
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House Bills 4917 (H-2) and 4918 (H-1) as reported from committee

Sponsor: Rep. Samantha Steckloff

Committee: Criminal Justice

Complete to 11-8-23

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

SUMMARY:

House Bill 4918 would amend the Michigan Penal Code to prohibit a person from assaulting, battering, or assaulting and battering an individual while the individual is performing their duties as the operator of a *bus*, *street railway vehicle*, or *train* or because of the individual's status as an employee or contractor of a bus service, *street railway service*, or *railroad*. A violation would be a crime as follows:

- **Simple assault:** A person who violates the above prohibition with no aggravating factors would be guilty of a misdemeanor punishable by imprisonment for up to 93 days or a fine of up to \$1,000, or both.¹ **With a prior conviction** for violating the above prohibition, regardless of aggravating factors, the person would be guilty of a misdemeanor punishable by imprisonment for up to 180 days or a fine of up to \$2,000, or both.
- **Aggravated assault:** A person who violates the above prohibition without a weapon and inflicts serious or aggravated injury on the individual without intending to commit murder or to inflict great bodily harm less than murder would be guilty of a misdemeanor punishable by imprisonment for up to one year or a fine of up to \$2,000, or both.² **With a prior conviction** for violating the above prohibition, regardless of aggravating factors, the person would be guilty of a felony punishable by imprisonment for up to two years or a fine of up to \$4,000, or both.
- **Assault with a deadly weapon:** A person who violates the above prohibition by assaulting the individual with a gun, revolver, pistol, knife, iron bar, club, brass knuckles, or other dangerous weapon without intending to commit murder or to inflict great bodily harm less than murder would be guilty of a felony punishable by imprisonment for up to four years or a fine of up to \$4,000, or both.³ **With a prior conviction** for violating the above prohibition, regardless of aggravating factors, the person would be guilty of a felony punishable by imprisonment for up to eight years or a fine of up to \$8,000, or both.

Bus would mean a motor vehicle, except for a school bus, that is designed to carry 15 or more passengers in addition to the driver.

¹ Currently, if the law prescribes no other penalty, a person who assaults or assaults and batters an individual is guilty of a misdemeanor punishable by imprisonment for up to 93 days or a fine of up to \$500, or both.

² Currently, except in specified circumstances, a person who assaults an individual without a weapon and inflicts serious or aggravated injury without intending to commit murder or inflict great bodily harm less than murder is guilty of a misdemeanor punishable by imprisonment for up to one year or a fine of up to \$1,000, or both.

³ Currently, except in specified circumstances, a person who assaults an individual with a gun, knife, iron bar, club, brass knuckles, or other dangerous weapon without intending to commit murder or inflict great bodily harm less than murder is guilty of a felony punishable by imprisonment for up to four years or a fine of up to \$2,000, or both.

Street railway vehicle would mean a streetcar, trolley, or tram that is operated on a rail.

Train would mean an engine or other motor operated on *railroad tracks*, regardless of whether cars are coupled to the engine or motor. (*Railroad track* means stationary rail owned or used by a railroad, but does not include a stationary rail used by a streetcar or that is part of a street railway system.)

Street railway service would mean either of the following:

- An **organization** formed under Michigan law for the purpose of operating a *street railway system* other than a railroad train for transporting persons or property. (For purposes of this definition, a *street railway system* means the facilities, equipment, and personnel required to provide and maintain a public transportation service; it is operated on rails principally within a municipality using streetcars, trolleys, and trams to transport persons or property; it may manufacture, use, sell, and supply electricity and electric power.)
- The **facilities**, equipment, and personnel required to provide and maintain a public transportation system operated on rails at grade or above or below ground within a city, village, or township utilizing streetcars, trolleys, light rail vehicles, or trams for the transportation of individuals or property. This also includes necessary power feeds, signals, and stops or stations within a public right-of-way, but it excludes facilities and improvements that are not required to maintain a public transportation system.

Railroad would mean a person, partnership, association, or corporation, their respective lessees, trustees, or receivers, appointed by a court, or other legal entity operating in Michigan either as a common carrier for hire or for private use as a carrier of persons or property upon cars operated upon stationary rails and would include any person, partnership, association, corporation, trustee, or receiver appointed by a court or any other legal entity owning railroad tracks.

The bill would not prohibit a person from being charged with, convicted of, or punished for any other violation of law arising out of the same transaction as a violation described above.

Proposed MCL 750.81g

House Bill 4917 would amend the Code of Criminal Procedure to add the felonies proposed by HB 4918 to the sentencing guidelines. Felonious assault (i.e., with a deadly weapon) on a transit operator or employee would be a Class F crime against a person with a statutory maximum term of imprisonment of five years. Aggravated assault with a prior conviction would be a Class G crime against a person with a maximum term of imprisonment of two years. Felonious assault with a prior conviction would be a Class G⁴ crime against a person with a maximum term of imprisonment of eight years.

The bill could not take effect unless HB 4918 were also enacted.

MCL 777.16d

Each bill would take effect 90 days after the date it is enacted.

⁴ **Note:** Offenses designated Class G [typically](#) have a maximum sentence of around two years. It also seems unusual for a felony *with* a prior conviction (and longer maximum prison term) to have a *lower* offense class than the same felony without prior convictions (and a shorter maximum), as would be the case here (i.e., Class G versus Class F).

BRIEF DISCUSSION:

According to committee testimony, assaults on transit workers have increased alarmingly in recent years, especially since the COVID-19 pandemic and lockdowns. While aggressive passenger behavior on airplanes and in airports has received some media attention, bus drivers and train conductors, as well as other transit employees such as ticketing agents and engineers, have also increasingly been assaulted, had weapons pulled on them, and been spat upon, while simply trying to do their jobs. The Federal Transit Administration (FTA) has found that the number of transit worker assaults increased by 121% from 2008 to 2021, and that even that data “may significantly underestimate the true number and rate of assaults on transit workers” because of reporting requirement thresholds.⁵ In many cases, what has perhaps been most troubling to affected workers is that their assailants face no consequences for their violent behavior. Many simply board a later bus or train as though nothing happened, leaving the employees having to constantly look over their shoulders while trying to work.

The bills would increase penalties for assaulting a transit worker, doubling potential fines for an initial assault and also increasing possible fines and prison sentences if the perpetrator has any prior convictions for such an assault.

In committee testimony, it was noted that many health professionals are also experiencing an increase in assaults over recent years. House Bills 4917 and 4918 would increase fines for assault similarly to House Bills 4520 and 4521, which address assaults on health care workers and volunteers. However, House Bills 4520 and 4521 do not include similar enhanced penalties for those with prior convictions.

According to committee testimony, the bills as introduced mirrored recent legislation enacted in Illinois and New Jersey to address the issue.

FISCAL IMPACT:

House Bill 4918 would have an indeterminate fiscal impact on the state and on local units of government. The number of felony convictions that would result under provisions of the bill is not known. An increase in felony convictions would result in increased costs related to state prisons and state probation supervision. In fiscal year 2022, the average cost of prison incarceration in a state facility was roughly \$47,900 per prisoner, a figure that includes various fixed administrative and operational costs. State costs for parole and felony probation supervision averaged about \$5,000 per supervised offender in the same year. Those costs are financed with state general fund/general purpose revenue. The fiscal impact on local court systems would depend on how provisions of the bill affected court caseloads and related administrative costs. It is difficult to project the actual fiscal impact to courts due to variables such as law enforcement practices, prosecutorial practices, judicial discretion, case types, and complexity of cases. Any increase in penal fine revenue would increase funding for public and county law libraries, which are the constitutionally designated recipients of those revenues.

⁵ <https://www.transit.dot.gov/sites/fta.dot.gov/files/2022-10/FTA-Special-Directive-22-14-to-the-Metropolitan-Transportation-Authority.pdf>

House Bill 4917 is a companion bill to HB 4918 and would amend sentencing guidelines to include felonies that would be created by HB 4918. The bill would not have a direct fiscal impact on the state or on local units of government.

POSITIONS:

Representatives of the following entities testified in support of the bills (10-10-23):

- SMART (International Association of Sheet Metal, Air, Rail, and Transportation Workers), Transportation Division
- BLET-IBT (Brotherhood of Locomotive Engineers and Trainmen-International Brotherhood of Teamsters)

The following entities indicated support for the bills:

- Amalgamated Transit Union (10-10-23)
- Railroads Association (10-24-23)
- Michigan Public Transit Association (10-24-23)
- AFL-CIO Transportation Trades Division (10-10-23)

The ACLU (American Civil Liberties Union) indicated opposition to the bills. (10-24-24)

Legislative Analyst: Rick Yuille
Fiscal Analyst: Robin Risko

■ 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.