



Senate Fiscal Agency
P. O. Box 30036
Lansing, Michigan 48909-7536

BILL ANALYSIS



Telephone: (517) 373-5383
Fax: (517) 373-1986
TDD: (517) 373-0543

Senate Bills 117 and 118 (as enrolled)
Sponsor: Senator Alan L. Cropsey (Senate Bill 117)
Senator Alan Sanborn (Senate Bill 118)
Senate Committee: Judiciary
House Committee: Criminal Justice

PUBLIC ACTS 16 & 15 of 2003

Date Completed: 8-14-03

RATIONALE

In Michigan and across the country, there apparently have been numerous incidents of individuals' impersonating police officers. These individuals, for unknown reasons, may want to appear to be police officers but have no intention of harming anyone or perpetrating a further offense. At other times, however, someone will impersonate a law enforcement officer with the intention of committing a crime. Perhaps the most notorious example of police impersonation involved the late Ted Bundy, a serial murderer who kidnapped and killed numerous women and girls in several states and eventually was executed in Florida. One victim of an attempted kidnapping identified Bundy as the man who claimed he was a police officer and tried to handcuff her. In Michigan, some have theorized that the so-called Oakland County child killer, who kidnapped and murdered four children in the 1970s, may have impersonated a police officer to gain the children's trust.

Although definitive statistics about the frequency of police impersonation are not available, anecdotal evidence suggests that it has long been a problem and that police impersonation may be on the rise. For instance, a Florida man accused of sexual misconduct reportedly passed himself off as a police officer in order to make a presentation to school children; a Macomb County man apparently used a blue flashing light to pull over drivers on the expressway; a Pontiac man reportedly posed as a sheriff's deputy in order to defraud area businesses; and two men in California claimed they were police officers in order to extort money from immigrants.

Although impersonating a police officer is a misdemeanor under Michigan law, some

people suggested that the statutory language prohibiting impersonation needed to be updated and that felony penalties should apply if the offender impersonates an officer to commit or attempt to commit a crime.

CONTENT

Senate Bill 117 amends the Code of Criminal Procedure to include in the sentencing guidelines the felony offense of impersonating a peace officer, as enacted by Senate Bill 118. That offense is designated in the guidelines as a Class F felony against the public safety, with a statutory maximum sentence of four years' imprisonment.

Senate Bill 118 amends the Michigan Penal Code to revise the prohibition against impersonating a police officer or coroner; create a felony penalty for impersonating a peace officer to commit or attempt to commit a crime; and allow consecutive sentencing for the felony and another violation.

The bills will take effect on September 1, 2003.

Senate Bill 117 was tie-barred to Senate Bill 118. A more detailed description of Senate Bill 118 follows.

Currently, under the Penal Code, it is a misdemeanor punishable by up to one year's imprisonment or a maximum fine of \$1,000 for a person falsely to do any of the following:

-- Assume or pretend to be a sheriff, deputy sheriff, conservation officer, coroner, constable, police officer, or member of the

Michigan State Police.

- Require a person to aid and assist him or her in any matter pertaining to the duty of sheriff, deputy sheriff, conservation officer, coroner, constable, police officer, or member of the Michigan State Police.
- Officiate in any office or place of authority.

The bill, instead, prohibits an individual who is not a peace officer or a medical examiner from performing the duties of a peace officer or medical examiner; representing to another person that he or she is a peace officer or medical examiner for any unlawful purpose; or representing to another person that he or she is a peace officer or medical examiner with the intent to compel the person to do or refrain from doing any act against his or her will. Except as described below, a violation will remain a misdemeanor punishable by up to one year's imprisonment, a maximum fine of \$1,000, or both.

The bill makes it a felony punishable by up to four years' imprisonment, a maximum fine of \$5,000, or both, for an offender to perform the duties of a peace officer, or represent to another person that he or she is a peace officer, in order to commit or attempt to commit a crime. A sentence imposed for this offense may be ordered to be served consecutively to any term of imprisonment imposed for another violation arising from the same transaction.

Under the bill, "peace officer" means any of the following:

- A sheriff or deputy sheriff of a county of this or another state.
- An officer of the police department of a city, village, or township of this or another state.
- A city, village, or township marshal.
- A constable.
- A Michigan State Police officer.
- A conservation officer.
- A State security employee authorized by the Director of the Department of State Police to have limited arrest powers for the protection of State-owned or -leased property or facilities in the City of Lansing and in Windsor Township, Eaton County (the site of the State Secondary Complex).
- An officer of the Department of State Police motor carrier enforcement division.
- A police officer or public safety officer of a

community college, college, or university who is authorized by the institution's governing board to enforce State law and the rules and ordinances of that community college, college, or university.

- A park and recreation officer commissioned by the Department of Natural Resources (DNR) to enforce Department rules and orders and any State laws specified by rule as enforceable by commissioned park and recreation officers.
- A State forest officer commissioned by the DNR Director to enforce, upon properties administered by the Department, State land use rules, orders of the Director, and any State laws specified in rule as enforceable by commissioned State forest officers.
- A Federal law enforcement officer.
- A Department of Attorney General investigator.

MCL 777.161 (S.B. 117)

750.215 (S.B. 118)

ARGUMENTS

(Please note: The arguments contained in this analysis originate from sources outside the Senate Fiscal Agency. The Senate Fiscal Agency neither supports nor opposes legislation.)

Supporting Argument

Police officers hold a recognized position of authority in this society and most people trust and respect a person who identifies himself or herself as an officer of the law. Whether done to perpetrate a hoax, harass someone, commit a serious crime, or enter a facility or area that otherwise is inaccessible, when someone falsely claims police credentials it can portray law enforcement in a negative light and create a distrust of officers. Also, the victim of someone who falsely poses as a police officer may be particularly vulnerable. For instance, in a Macomb County case, a man was accused of using a flashing blue light to stop a driver, and then assaulting and robbing the motorist. Also, a Pontiac man allegedly flashed a badge at area businesses to portray himself as a sheriff's deputy in order to cash bogus checks and to request other perks from the businesses. A more egregious case occurred in Florida, where a man who had a history of impersonating a police officer and had been accused of lewd conduct with two young boys apparently used fake police credentials to gain permission to speak and

make a presentation to a group of elementary students.

The misdemeanor penalty of up to one year's imprisonment or a maximum fine of \$1,000 is too lenient for someone who impersonates a police officer in order to victimize others. Someone who assaults and robs a motorist while posing as a police officer or who uses fake law enforcement credentials to defraud a business should pay a higher price for his or her crime. By establishing felony penalties and allowing a court to impose consecutive sentences, the bills subject a person to a harsher sentence if he or she falsely represents himself or herself as a peace officer in order to commit or attempt a crime.

Supporting Argument

Senate Bill 118 updates language in the Penal Code prohibition against impersonating a law enforcement officer or coroner, and more clearly defines the positions to which the violation applies. For instance, the bill uses the term "medical examiner", which now is widely used in place of "coroner", and the new definition of "peace officer" encompasses Federal law enforcement officers and conservation officers, as well as Department of Attorney General investigators and others. Also, rather than targeting someone who "falsely assumes or pretends" to be a law enforcement officer, which could include an actor portraying an officer on stage or a person attending a costume party, the bill is geared toward someone who falsely performs certain duties or represents himself or herself as a peace officer for certain purposes.

Supporting Argument

In recent years, legislation has established felony penalties for impersonating a public utility employee or a Family Independence Agency worker for certain purposes (Public Act 159 of 1997 and Public Act 21 of 2001, respectively). Impersonating a peace officer for the purpose of committing a crime also can pose a serious danger to potential victims and should carry a felony penalty.

Legislative Analyst: Patrick Affholter

FISCAL IMPACT

The bills will have an indeterminate fiscal impact on State and local government.

There are no statewide data available to indicate how many offenders are currently convicted of a misdemeanor for impersonating a peace officer or to indicate how many offenders will be convicted under the revised provision. Offenders convicted of a misdemeanor will continue to receive up to one year's imprisonment or a maximum fine of \$1,000, or both. The cost of incarceration and probation for a misdemeanor is incurred by local units of government and varies by county.

There are no data available to indicate how many offenders will be convicted of a felony for impersonating a peace officer in order to commit a crime. That felony will be a Class F offense, for which an offender is subject to a sentencing guideline minimum sentencing range from 0-3 months to 17-30 months. Local units will incur the cost of incarceration for offenders who receive jail sentences in the lower minimum sentencing range, while the State will incur the cost of felony probation at \$4.38 per day and incarceration for offenders who receive longer minimum sentences in a State prison, at an average annual cost of \$25,000. For each offender convicted, sentenced to prison, and given the longest allowable minimum sentence, it will cost the State \$62,500. The bills also may increase State costs by allowing a court to order that an offender serve this sentence consecutively to any sentence received for the underlying crime.

Fiscal Analyst: Bethany Wicksall

A0304s117ea

This analysis was prepared by nonpartisan Senate staff for use by the Senate in its deliberations and does not constitute an official statement of legislative intent.