

# Legislative Analysis

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## POSSESSING AND USING RANSOMWARE WITHOUT AUTHORIZATION

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

**House Bill 5257 as introduced**  
**Sponsor: Rep. Brandt Iden**

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

**House Bill 5258 as introduced**  
**Sponsor: Rep. James A. Lower**

**Committee: Communications and Technology**  
**Complete to 12-4-17**

### SUMMARY:

House Bill 5257 would amend the Michigan Penal Code by creating a prohibition against possessing and using ransomware without authorization. House Bill 5258 would amend the Code of Criminal Procedure by adding sentencing guidelines for a violation of possessing and using ransomware without authorization.

**House Bill 5257** would add Section 409b to the Michigan Penal Code to prohibit a person from knowingly possessing ransomware with the intent to use or employ it on the computer or computer data, system, or network of another person without that person's authorization. A violation of this new section would be punishable by up to 10 years' imprisonment.

Under the bill, ransomware would mean a computer or data contaminant, encryption, or lock that has the ability to be placed or introduced without authorization *and* that restricts access by an authorized person into a computer or computer data, system, or network. The placement or introduction of the ransomware would enable the person responsible for the placement or introduction to demand payment of money or other consideration to remove the computer contaminant, restore access to the computer or computer data, system, or network, or otherwise remediate the impact of the computer contaminant or lock. Ransomware would *not include* authentication required to upgrade or access purchased content.

House Bill 5257 would take effect 90 days after it is enacted.

Proposed MCL 750.409b

**House Bill 5258** would add sentencing guidelines to the Code of Criminal Procedure for a violation of the section proposed by HB 5257. A violation would be categorized as a crime against public order, classified as a class D violation, and have a statutory maximum prison sentence of 10 years.

House Bill 5258 is tie-barred to HB 5257, which means that HB 5258 cannot take effect unless HB 5257 is also enacted.

## **FISCAL IMPACT:**

House Bill 5257 would have an indeterminate fiscal impact on the state's correctional system and on local court systems. Information is not available on the number of persons that might be convicted under provisions of the bill, but new felony convictions would result in increased costs related to state prisons and parole supervision. In fiscal year 2016, the average cost of prison incarceration in a state facility was roughly \$36,000 per prisoner, a figure that includes various fixed administrative and operational costs. State costs for parole and felony probation supervision averaged about \$3,500 per supervised offender in the same year. The fiscal impact on local court systems would depend on how provisions of the bill affected caseloads and related administrative costs.

House Bill 5258 amends sentencing guidelines and does not have a direct fiscal impact on the state or on local units of government.

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