

# Legislative Analysis



## INCREASE PENALTIES PRESCRIPTION VIOLATIONS

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**House Bills 4249 and 4250**  
**Sponsor: Rep. Barb Byrum**  
**Committee: Judiciary**

**Complete to 4-28-09**

### A SUMMARY OF HOUSE BILLS 4249 AND 4250 AS INTRODUCED 2-11-09

The bills would increase the penalty from a misdemeanor to a felony for certain offenses involving prescription drugs and add the offense to the sentencing guidelines.

House Bill 4250 would amend the Public Health Code (MCL 333.17766). Currently, it is a misdemeanor offense punishable by imprisonment for not more than 90 days and/or a fine of not more than \$500 for certain offenses involving prescription drugs, e.g., forging a prescription. The bill would increase the penalty to a felony punishable for up to four years and/or a fine of not more than \$5,000. The increased penalty would pertain to:

\*\* Obtaining or attempting to obtain a prescription drug by supplying a false name to a pharmacist or other lawful dispenser; or falsely representing oneself as a lawful prescriber or licensee or acting on that person's behalf.

\*\* Falsely making, publishing, passing, altering, or forging a prescription.

\*\* Knowingly possessing a false, forged, or altered prescription.

\*\* Knowingly attempting to obtain, obtaining, or possessing a drug by means of a prescription for other than a legitimate therapeutic purpose, or as a result of a false, forged, or altered prescription.

\*\* Possessing or controlling for the purpose of resale, or reselling, offering to sell, dispensing, or giving away a drug, pharmaceutical preparation, or chemical that had been dispensed on prescription and had left a pharmacist's control or one damaged by heat, smoke, fire, water, or other cause and is unfit for human or animal use.

\*\* Preparing or permitting the preparation of a prescription drug, except as delegated by a pharmacist.

\*\* Selling a drug in bulk or in an open package at auction, unless the sale has been approved in accordance with rules of the Michigan Board of Pharmacy.

House Bill 4249 would amend the Code of Criminal Procedure (MCL 777.13n) to specify that prescription violations would be a Class F felony against the public safety with a maximum term of imprisonment of four years.

## **FISCAL IMPACT:**

The bills' fiscal impact on state and local correctional systems would depend on how they affected the numbers of misdemeanor and felony sentences and severity of sentences. There are no data to indicate how many offenders might be affected by the bills. To the extent that the bills decreased the number of misdemeanor sentences, local costs of jail incarceration or misdemeanor probation supervision, both of which vary with jurisdiction, could decrease.

To the extent that the bills increased the number of felony sentences, the state could incur increased costs of incarceration or felony probation supervision. The average appropriated cost of prison incarceration is roughly \$33,000 per prisoner per year, a figure that includes various fixed administrative and operational costs. Costs of parole and probation supervision, exclusive of the cost of electronic tether, average about \$2,100 per supervised offender per year. To the extent that offenders received longer jail sentences for felony offenses than they would have for analogous misdemeanors, affected counties could incur increased costs.

The felony offense for prescription violations would be a Class F crime against public safety. Exclusive of sentences for habitual offenders, the guidelines-recommended minimum sentence for a Class F offense varies from 0-3 months, for which a nonprison sanction is required, to 17-30 months, for which a prison sentence is required.

Any increase in penal fine revenues could benefit local libraries, which are the constitutionally-designated recipients of those revenues.

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■ This analysis was prepared by nonpartisan House staff for use by House members in their deliberations, and does not constitute an official statement of legislative intent.