

MAKING FALSE OR MISLEADING STATEMENTS DURING CRIMINAL INVESTIGATIONS: PROHIBIT

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House Bills 5050 and 5051
Sponsor: Rep. John Walsh
Committee: Judiciary

Complete to 1-18-12

A SUMMARY OF HOUSE BILLS 5050 & 5051 AS INTRODUCED 10-11-11

House Bill 5050 would make it a crime to conceal material facts from a peace officer in a criminal investigation or to make false or misleading statements regarding a material fact in a criminal investigation and establish penalties for a violation. House Bill 5051 would place the maximum term of imprisonment for a felony conviction within the sentencing guidelines. Both bills would take effect 90 days after enactment.

House Bill 5050 would add a new section to the Michigan Penal Code (MCL 750.479c). A person who is informed by a peace officer that the officer is conducting a criminal investigation would be prohibited from doing any of the following related to a criminal investigation:

- Intentionally concealing from the peace officer (by any trick, scheme, or device) any material fact.
- Intentionally making any statement to the peace officer that is false or misleading regarding a material fact.
- Intentionally issuing or providing any writing or document to the peace officer that the person knows is false or misleading regarding a material fact.

Penalties

The bill would create a tiered-penalty structure for violations based on the underlying crime being investigated as detailed below:

For an investigation of a misdemeanor punishable by imprisonment for less than one year, the penalty would be a misdemeanor punishable by up to 93 days in jail and/or a fine of not more than \$500.

For an investigation of a misdemeanor punishable by more than one year imprisonment or a felony punishable by imprisonment for up to four years, the penalty would be a misdemeanor punishable by imprisonment for not more than one year and/or a fine of not more than \$2,500.

For an investigation of a felony punishable by imprisonment by four years or more, the penalty would be a felony punishable by imprisonment for not more than four years and/or a fine of not more than \$5,000.

The bill's provisions would not prohibit an individual from invoking his or her Fifth Amendment rights under the U.S. Constitution (the right to not incriminate oneself,

protection from double jeopardy, and other due process rights) or similar rights under Section 17 of the State Constitution.

"Peace officer" would be defined to mean one or more of the following:

- State or local police officer.
- County sheriff or deputies.
- Public safety officer of a college or university who is authorized by that institution's governing board to enforce state law and the rules and ordinances of that institution.
- A conservation officer of the Department of Natural Resources.

House Bill 5051 would amend the Code of Criminal Procedure (MCL 777.16x) to specify that providing false information to a peace officer conducting a criminal investigation (if the underlying crime was a felony punishable by imprisonment for four or more years) would be a Class F felony against the Public Order with a maximum term of term of imprisonment of four years.

FISCAL IMPACT:

To the extent that the bills result in a greater number of felony or misdemeanor convictions, it could increase costs on state and local correctional systems. Information is not available on the number of persons that might be convicted under these provisions. New felony convictions could result in increased costs related to state prisons, county jails, and/or state felony probation supervision. New misdemeanor convictions could increase costs related to county jails and/or local misdemeanor probation supervision. The average cost of prison incarceration in a state facility is roughly \$34,000 per prisoner per year, a figure that includes various fixed administrative and operational costs. The costs of local incarceration in a county jail and local misdemeanor probation supervision vary by jurisdiction. State costs for parole and felony probation supervision, exclusive of the cost of electronic tether, average about \$2,200 per supervised offender per year. Any increase in penal fine revenues would increase funding for local libraries, which are the constitutionally-designated recipients of those revenues.

House Bill 5050 provides that a person that violates the bill's provisions in an investigation of a felony crime punishable by imprisonment for four years or more is guilty of a felony. House Bill 5051 establishes this as a Class F felony with a maximum prison sentence of four years. Under Michigan sentencing guidelines, persons convicted of this offense that are not habitual offenders under state law would be subject to minimum prison sentencing ranges of between 0-3 months up to 17-30 months depending on guideline scores for the nature of the offense and the person's prior record. Except in cases where the offense and prior record scores were very high, the court would also have discretion under the guidelines to impose intermediate sanctions such as jail or probation in lieu of a prison sentence.

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