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House Bill 5050 (Substitute H-4 as passed by the House)

House Bill 5051 (Substitute H-1 as passed by the House)

Sponsor: Representative John Walsh

House Committee: Judiciary

Senate Committee: Judiciary

Date Completed: 2-27-12

CONTENT

House Bill 5050 (H-4) would amend the Michigan Penal Code to prohibit and prescribe criminal penalties for concealing a material fact from a peace officer, or misleading a peace officer regarding a material fact, in a criminal investigation of a felony or a misdemeanor described in the bill.

House Bill 5051 (H-1) would amend the Code of Criminal Procedure to include in the sentencing guidelines an offense proposed by House Bill 5050 (H-4).

The bills would take effect 90 days after their enactment. House Bill 5051 (H-1) is tied to House Bill 5050.

House Bill 5050 (H-4)

Under the bill, if a peace officer informed a person that he or she was conducting a criminal investigation, the person could not knowingly and willfully do any of the following:

- Conceal from the peace officer, by any trick, scheme, or device, any material fact relating to the criminal investigation.
- Make any statement to the peace officer that the person knew was false or misleading regarding a material fact in the criminal investigation.
- Issue or otherwise provide any writing or document to the peace officer that the person knew was false or misleading regarding a material fact in the criminal investigation.

A person who violated the prohibition would be guilty of a misdemeanor. As shown in Table 1, the penalty would depend on the level of the crime being investigated.

Table 1

Crime Being Investigated	Max. Penalty
Serious misdemeanor*	93 days and/or \$500
Misdemeanor punishable by > 1 year, or felony punishable by < 4 years	1 year and/or \$2,500
Felony punishable by at least 4 years	2 years and/or \$5,000
* "Serious misdemeanor" would mean that term as defined in the Crime Victim's Rights Act (MCL 780.811).	

The bill would not apply to a statement made or action taken by an alleged victim of the crime the peace officer was investigating. The bill also would not apply to a person who was acting under duress or out of a reasonable fear of physical harm to himself or herself, or another person, from a spouse or former spouse, a person with whom he or she had a dating relationship, a person with whom he or she had a child in common, or a resident or former resident of his or her household.

The bill would not prohibit a person from doing either of the following:

- Invoking his or her rights against self-incrimination under the Fifth Amendment of the U.S. Constitution or under Article I, Section 17 of the State Constitution.
- Declining to speak to or otherwise communicate with a peace officer concerning the criminal investigation.

The bill would define "peace officer" as any of the following:

- A sheriff or deputy sheriff.
- An officer of a city, village, or township police department.
- A marshal of a city, village, or township.
- A constable of any local unit of government.
- An officer of the Michigan State Police.
- A Michigan conservation officer.
- A security employee employed by the State for the protection of State-owned or leased property or facilities in Lansing or at the State Secondary Complex.
- A State Police Motor Carrier Officer.
- A police or public safety officer of a Michigan community college, college, or university who is authorized by the school's governing board to enforce State law and the rules and ordinances of the educational institution.
- A park and recreation officer commissioned under the Natural Resources and Environmental Protection Act (NREPA).
- A State forest officer commissioned under NREPA.
- A State Attorney General investigator.

(The Crime Victim's Rights Act defines "serious misdemeanor" as any of the following:

- Assault and battery, including domestic violence.
- Assault with infliction of serious injury, including aggravated domestic violence.
- Breaking and entering or illegal entry.
- Fourth-degree child abuse.
- Contributing to the neglect or delinquency of a minor.
- A misdemeanor violation of using the internet or a computer to make a prohibited communication.
- Intentionally aiming a firearm without malice.
- Discharge of an intentionally aimed firearm without injury.
- Discharge of an intentionally aimed firearm resulting in injury.
- Indecent exposure.
- Stalking.
- Injuring a worker in a work zone.
- Leaving the scene of a personal injury accident.
- Operating a vehicle while under the influence or impaired, resulting in property damage, physical injury, or death.
- Selling or furnishing alcoholic liquor to a person under 21, resulting in physical injury or death.
- Operating a vessel while under the influence or impaired, resulting in property damage, physical injury, or death.
- A violation of a substantially corresponding local ordinance.)

House Bill 5051 (H-1)

Under the bill, providing false information to a peace officer who was investigating a felony punishable by at least four years' imprisonment, would be included in the sentencing guidelines as Class G felony against the public order, with a statutory maximum penalty of two years' imprisonment.

Proposed MCL 750.479c (H.B. 5050)
MCL 777.16x (H.B. 5051)

Legislative Analyst: Patrick Affholter

FISCAL IMPACT

The bills would have an indeterminate fiscal impact on State and local government. The severity of the punishment for the offense would be linked to the severity of the crime being investigated. Therefore, punishments ranging from State imprisonment to local probation would be possible. There are no data to indicate how many offenders would be convicted of this new crime. The cost of incarceration in a State facility is approximately \$34,000 annually, while the cost of incarceration in a county jail varies by county. Penal fine revenue benefits public libraries.

Fiscal Analyst: Dan O'Connor

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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.