



Senate Fiscal Agency
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BILL ANALYSIS



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House Bill 5442 (Substitute H-1 as passed by the House)
House Bill 5449 (Substitute H-1 as passed by the House)
House Bill 5567 (Substitute H-1 as passed by the House)
Sponsor: Representative Brandt Iden (H.B. 5442)
Representative Jon Hoadley (H.B. 5449)
Representative David C. Maturen (H.B. 5567)
House Committee: Communications and Technology
Senate Committee: Judiciary

Date Completed: 5-17-16

CONTENT

House Bill 5442 (H-1) would create the "Public Threat Alert System Act" to do the following:

- **Require the Michigan Department of State Police (MSP) to establish and maintain a public threat alert system plan.**
- **Require the alert system plan to disseminate information rapidly to radio and television stations and send text messages.**
- **Prohibit and prescribe a felony penalty for intentionally and knowingly making a false report of a public threat.**
- **Authorize a court to order a person convicted of making a false report to pay the State or a local unit of government, and the media, the cost of responding to a false report.**

House Bill 5449 (H-1) would amend the Code of Criminal Procedure to include the felony proposed by House Bill 5442 (H-1) in the sentencing guidelines.

House Bill 5567 (H-1) would amend the Code of Criminal Procedure to authorize a sentencing court to order an offender to reimburse the State or a local unit for expenses incurred in relation to a false report of a public threat.

House Bill 5442 (H-1) is tie-barred to House Bill 5449. House Bills 5449 (H-1) and 5567 (H-1) are tie-barred to House Bill 5442. Each of the bills would take effect 90 days after its enactment.

House Bill 5442 (H-1)**Alert System Plan**

The MSP would be required to establish and maintain the public threat alert system plan.

The plan would have to be designed to rapidly disseminate useful information in a predetermined manner to radio and television stations within Michigan and to send text messages to wireless two-way communication devices, including cellular telephones. The plan could be activated only in accordance with the policies established by the MSP.

"Public threat" would mean a clear, present, persistent, ongoing, and random threat to public safety. The term would include an act of terrorism, an unresolved mass shooting, or an unresolved mass shooting spree.

False Report

A person would be prohibited from intentionally making a false report of a public threat, or intentionally causing a false report of a public threat to be made, to a peace officer, police agency of the State or a local unit, 9-1-1 operator, or any other governmental employee or contractor, or employee of a contractor, who was authorized to receive the report, knowing the report to be false. A violation would be a felony punishable by up to four years' imprisonment, a maximum fine of \$2,000, or both.

The court could order a person convicted of making a false report to pay the State or local unit, and the media, the costs of responding to the false report or threat, including the use of police or fire emergency response vehicles and teams.

House Bill 5449 (H-1)

Under the bill, a false report of a public threat would be a Class F public safety felony with a statutory maximum sentence of four years' imprisonment.

House Bill 5567 (H-1)

Under the Code of Criminal Procedure, as part of the sentence for a conviction of certain offenses, in addition to any other penalty authorized by law, the court may order the offender to reimburse the State or a local unit for expenses incurred in relation to that incident, including expenses for an emergency response and the expenses of prosecution. The bill would include among those offenses intentionally making a false report of a public threat, or intentionally causing a false report of a public threat to be made, to a peace officer, police agency, 9-1-1 operator, or any other governmental employee or contractor authorized to receive the report.

(Expenses for which reimbursement may be ordered include all of the following:

- The salaries or wages, including overtime pay, of law enforcement, fire department, and emergency medical service personnel.
- The cost of medical supplies lost or used by fire department and emergency medical service personnel.
- The salaries, wages, or other compensation, including overtime pay, of prosecution personnel.
- The cost of extraditing a person from another state to Michigan.)

MCL 777.11b (H.B. 5449)
769.1f (H.B. 5567)

Legislative Analyst: Patrick Affholter

FISCAL IMPACT

House Bill 5442 (H-1)

The bill would have a minimal fiscal impact on the Department of State Police. New responsibilities, which could include the development and maintenance of the Public Threat Alert System and adjustments to information technology systems, would have essentially a neutral fiscal impact on the MSP's Special Operations Division and would be assumed within current existing resources, according to the Department.

The bill would have a negative fiscal impact on State and local government. An increase in felony prosecutions and convictions could increase resource demands on local court systems, law enforcement, and prisons. For any increase in prison intakes, in the short term, the marginal cost to State government would be approximately \$3,764 per prisoner per year. In the long term, if the increased intake of prisoners increased the total prisoner population enough to require the Department of Corrections to open a housing unit or an entire facility, the marginal cost to State government would be approximately \$34,550 per prisoner per year. Any increase in fine revenue would be dedicated to public libraries.

House Bill 5449 (H-1)

The bill would have no fiscal impact on local government and an indeterminate fiscal impact on the State, in light of the Michigan Supreme Court's July 2015 opinion in *People v. Lockridge* (in which the Court struck down portions of the sentencing guidelines law). According to one interpretation of that decision, the sentencing guidelines are advisory for all cases even after the scoring of the offense is completed. This means that the addition to the guidelines under the bill would not be compulsory for the sentencing judge. As penalties for felony convictions vary, the fiscal impact of any given felony conviction would depend on judicial decisions.

House Bill 5567 (H-1)

Along with the corresponding provision of House Bill 5442 (H-1), the bill would likely have a positive fiscal impact on State and local government. The size of impact would be determined by how many individuals would be convicted of making a false report of a public threat, the cost of responding to those reports, and the amount of restitution ultimately paid by each defendant.

Fiscal Analyst: Bruce Baker
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