

# Legislative Analysis

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## **NEW FELONY: PRISONERS & DETAINEES THROWING "BODILY MATERIAL"**

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

**House Bill 4119 as introduced**  
**Sponsor: Rep. Brandt Iden**

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

**House Bill 4118 as introduced**  
**Sponsor: Rep. Klint Kesto**

**Committee: Law and Justice**  
**Complete to 2-17-17**

### **SUMMARY:**

House Bill 4119 would add Section 411x to the Michigan Penal Code to make it a felony for a detainee or prisoner in a holding cell, holding center, lockup, jail, or state correctional facility to throw or attempt to throw "bodily material" on any individual performing duties as a peace officer, corrections officer, parole officer, or probation officer.

The felony would also apply if such a detainee or prisoner causes or attempts to cause an individual described above "to come into contact with any bodily material."

As used in Section 411x, "bodily material" means blood, urine, saliva, or feces.

Such an action would constitute a felony punishable by imprisonment up to four years, or a fine up to \$2,000, or both.

In addition, a detainee or prisoner charged, convicted, and sentenced under this new section may also be charged, convicted, and sentenced for any other violation of law applicable.

House Bill 4118 would make a complementary amendment to the sentencing guidelines in the Code of Criminal Procedure to add sanctions for a violation of Section 411x under the Penal Code. The category for the crime would be considered a Class F felony against a person with a maximum punishment of four years imprisonment.

The two bills are tie-barred, meaning neither can take effect unless both are enacted.

MCL 750.411x (HB 4119)  
MCL 777.16t (HB 4118)

### **BACKGROUND:**

#### Definitions

Section 411x would use the definitions in the Corrections Code for holding cell, holding center, jail, lockup, and state correctional facility.

- "Holding cell" means a cell or room in a facility of a local unit of government that is used for the detention of one or more persons awaiting processing, booking, court appearances, transportation to a jail or lockup, or discharge for not to exceed 12 hours.
- "Holding center" means a facility that is operated by a local unit of government for the detention of persons awaiting processing, booking, court appearances, transportation to a jail or lockup, or discharge, for not to exceed 24 hours.
- "Jail" means a facility that is operated by a local unit of government for the detention of persons charged with, or convicted of, criminal offenses or ordinance violations; and persons found guilty of civil or criminal contempt. It also refers to a facility housing prisoners under an agreement authorized under Public Act 164 of the Public Acts of 1861 (MCL 802.1 to 802.21) for not more than one year.
- "Lockup" means a facility that is operated by a local unit of government for the detention of persons awaiting processing, booking, court appearances, or transportation to a jail, for not to exceed 72 hours.
- "State correctional facility" means a facility or institution maintained and operated by the Michigan Department of Corrections.

#### **FISCAL IMPACT:**

House Bill 4119 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 the provisions of the bill, but new felony convictions would result in increased costs related to state prisons and state probation 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 the provisions of the bill affected caseloads and related administrative costs. Any increase in penal fine revenues would increase funding for local libraries, which are the constitutionally-designated recipients of those revenues.

House Bill 4118 amends sentencing guidelines and does not have a direct fiscal impact on the state or on local units of government.

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