

# Legislative Analysis



## SEPARATE CRIME FOR TARGETING VICTIM BASED ON EMPLOYMENT

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<http://www.house.mi.gov/hfa>

**House Bill 4585 (H-1) as reported from Committee**  
**Sponsor: Rep. Jeff Yaroch**

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

**House Bill 4590 (H-1) as reported**  
**Sponsor: Rep. Klint Kesto**

**House Bill 4591 (H-2) as reported**  
**Sponsor: Rep. Brandt Iden**

**Committee: Law and Justice**  
**Complete to 10-9-17**

### ***BRIEF SUMMARY:***

House Bills 4585 and 4590 would amend the Michigan Penal Code (MPC) by adding new sections that would create additional felonies for targeting a victim based on his or her actual or perceived employment. House Bill 4591 would amend the Code of Criminal Procedure by creating sentencing guidelines to accompany the newly proposed felony offenses.

### ***FISCAL IMPACT:***

The bills 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 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 provisions of the bill affected caseloads and related administrative costs.

### ***THE APPARENT PROBLEM:***

According to the National Law Enforcement Officers Memorial Fund, in 2015, of the 137 officer deaths in the United States, 43 officers were killed by gunfire and 51,548 officers were assaulted. In 2016, of 143 officer deaths, 66 officers were killed by gunfire. No data is available for the number of assaults against officers for 2016. This year (from January 1 through October 4), of the 97 total officer deaths, 35 are firearms related, with two total officer fatalities in Michigan.<sup>1</sup>

According to Detroit Police Chief James Craig, the level of threats and actual violence against public safety officers is the worst he's seen in 40 years. The Detroit Police Department claims

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<sup>1</sup>All data found here: <http://www.nleomf.org/facts/officer-fatalities-data/causes.html>, here: <http://www.nleomf.org/facts/officer-fatalities-data/daifacts.html>, and here: <http://www.nleomf.org/facts/officer-fatalities-data/>.

that there were six attempted ambushes against police in 2016, and 10 attempted ambushes so far in 2017.<sup>2</sup>

### ***THE CONTENT OF THE BILL:***

#### **House Bills 4585 and 4590**

HBs 4585 and 4590 would add Sections 479e and 479d, respectively, within the MPC to create two new felonies for a person who targets a victim based on the victim's actual or perceived employment. The felony would be applicable if both of the following occurred:

- The person committed or attempted to commit a *violent* felony, and
- The victim was targeted because he or she was or was perceived to be any of the following:
  - Either a firefighter or emergency medical services personnel (HB 4585), or
  - Either a law enforcement officer or corrections officer (HB 4590).

The proposed felonies would be punishable by imprisonment for not more than two years and would have to be served consecutively with (either before or after, rather than concurrently) any other term of imprisonment imposed for the underlying felony or attempted felony.

Under the bills, the terms below would refer to existing statutory definitions to mean the following:

- Emergency medical services personnel would refer to a medical first responder, emergency medical technician, emergency medical technician specialist, paramedic, or emergency medical services instructor-coordinator. (MCL 333.20904)
- Firefighter would mean a member, including volunteer members and members paid on call, of an organized fire department who is responsible for, or is in a capacity that includes responsibility for, the extinguishment of fires, the directing of the extinguishment of fires, the prevention and detection of fires, and the enforcement of the general fire laws of this state. Firefighter does not include a person whose job description, duties, or responsibilities do not include direct involvement in fire suppression. (MCL 29.362)
- Corrections officer would mean "a prison or jail guard or other prison or jail personnel; any of the personnel of a boot camp, special alternative incarceration unit, or other minimum security correctional facility; or a parole or probation officer. (MCL 750.316)
- Law enforcement officer would refer to that term as defined in the Michigan Commission on Law Enforcement Standards (MCOLES) Act". (MCL 28.602)
- Violent felony would mean any of the following offenses against a person, as defined in the Michigan Penal Code (750.82, et al.):
  - Felonious assault
  - Assault with intent to commit murder

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<sup>2</sup>Gongwer News Service, Chiefs Urge Bill to Promote Police/Fire Safety, Sept. 27, 2017, [https://www.gongwer.com/programming/news.cfm?article\\_id=561880106](https://www.gongwer.com/programming/news.cfm?article_id=561880106)

- Assault with intent to do great bodily harm less than murder
- Assault by strangulation of suffocation
- Torture
- Assault with intent to maim
- Assault with intent to commit felony not otherwise punished
- Assault with intent to rob and steal unarmed or armed
- First and second degree murder
- Manslaughter
- Kidnapping or leading away child
- Prisoner taking person as hostage
- Mayhem
- Criminal Sexual Conduct in the first, second, third, or fourth degree
- Assault with intent to commit criminal sexual conduct
- Larceny and aggravated assault using or possessing a dangerous weapon while engaging in larceny
- Carjacking

The bills are tie-barred to one another, which means neither is enacted unless both are enacted.

**House Bill 4591**

HB 4591 would amend the Code of Criminal Procedure by creating sentencing guidelines to accompany the proposed felony offenses described above. The proposed felonies would be Class G offenses against a person with a two-year maximum imprisonment sentence.

HB 4591 is tie-barred to both HBs 4585 and 4590, which means it would not be enacted unless both other bills are enacted.

Proposed MCL 750.479e et al.

***ARGUMENTS:***

***For:***

Supporters of the bills argue that the bills would add an extra layer of protection to already inherently stressful and dangerous employment positions. Because of the number of deaths and violent incidents against law enforcement officers, corrections officers, firefighters, and emergency services personnel (first responders), there is an additional stress and fear of being personally targeted and victimized. The intent of these bills is to protect the institutions that protect the public, because a first responder cannot do their job of protecting the public if they fear being retaliated against simply for wearing their uniform.

***Against:***

Critics of the bills argue that the bills are redundant, as Michigan currently has MCL 750.81d, which imposes an additional sentence and/or a fine for assaulting, battering, wounding, resisting, obstructing, opposing, or endangering a police officer, firefighter, or emergency medical services personnel, which is also served consecutively with any underlying offense. The penalties range from 2 – 20 years imprisonment and \$2,000 - \$20,000 in fines, depending on whether the officer was injured, suffered a serious impairment of body function, died, or was not harmed.

Opponents also argue there is no evidence that these bills would make first responders safer because there is a lack of evidence to suggest that they are being targeted merely for their occupation. If there is an increase of assaults on first responders, prosecution under the current law should be the first step in reducing those incidents.

***Response:***

Proponents of the bills responded by highlighting the main difference in these bills with the current law. These bills would provide an additional protection to first responders who are off-duty, as well as individuals who are perceived as being a first responder. The current law does not apply to off-duty first responders, nor does it provide protection to persons who are mistaken as a first responder and are targeted because of that misperception.

***POSITIONS:***

Representatives from the following organizations support the bills:

- Clinton Township Fire Department (9-26-17)
- Covert Township Fire Department (9-26-17)
- West Bloomfield Fire Department (9-26-17)
- Detroit Police Department (9-26-17)
- Oshtemo Township Fire Department (9-26-17)
- Michigan Fire Service Coalition (9-26-17)
- Michigan Sheriff's Association (9-26-17)
- Oakland County Sheriff's Office (9-26-17)
- Michigan State Police (9-26-17)
- Michigan State Firemen's Association (9-26-17)
- Michigan Fire Inspectors Society (9-26-17)
- Michigan Fire Service Instructors Association (9-26-17)
- Michigan Professional Fire Fighters Union (9-26-17)
- Fraternal Order of Police (10-3-17)
- Attorney General Bill Schuette (10-3-17)
- Police Officers Association of Michigan (10-3-17)

Representatives from the following organizations oppose the bills:

- American Civil Liberties Union of Michigan (9-26-17)
- Union Missionary Baptist Church; Black Lives Matter of Lansing (10-3-17)

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