



Senate Fiscal Agency  
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## BILL ANALYSIS



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House Bills 5942 and 5943 (as passed by the House)  
Sponsor: Representative Beau Matthew LaFave (H.B. 5942)  
Representative Scott VanSingel (H.B. 5943)  
House Committee: Judiciary  
Senate Committee: Judiciary

Date Completed: 12-3-18

**CONTENT**

**House Bill 5942 would amend Chapter 37 (Firearms) of the Michigan Penal Code to do the following:**

- **Prohibit and prescribe a misdemeanor penalty for intentionally threatening to commit with a firearm, explosive, or other dangerous weapon violent acts against school students or employees on school property.**
- **Prohibit and prescribe a felony penalty for threatening to commit a violent act against school students or employees on school property with an overt act toward completion or with specific intent to carry out the threat.**

**House Bill 5943 would amend the sentencing guidelines in the Code of Criminal Procedure to include the proposed felony as a Class D offense against the public safety with a statutory maximum of 10 years' imprisonment.**

House Bill 5943 is tie-barred to House Bill 5942. Each bill would take effect 90 days after its enactment.

House Bill 5942 is described in more detail below.

Under the bill, a person who verbally, through the use of an electronic device or system, or through other means intentionally threatened to use a firearm, explosive, or other dangerous weapon to commit an act of violence against any students or school employees on school grounds or school property if the threat could be reasonably interpreted to be harmful or adverse to human life, or dangerous to human life as that term is defined in Section 543b, would be guilty of a misdemeanor punishable by imprisonment for up to one year or a fine of up to \$1,000, or both.

(Section 543b defines "dangerous to human life" as that which causes a substantial likelihood of death or serious injury, or that is a violation of Section 349 or 350. Section 349 prohibits a person from kidnapping or knowingly restraining another person. Section 350 prohibits a person from maliciously, forcibly, or fraudulently leading, taking, carrying away, decoying, or enticing away a child under the age of 14, with the intent to detain or conceal the child from his or her parent or legal guardian.)

A person who intentionally threatened to use a firearm, explosive, or other dangerous weapon to commit an act of violence against any students or school employees on school grounds or

school property and, in the course of committing that violation, had the specific intent to carry out the threat, or had undertaken an overt act toward carrying out the threat would be guilty of a felony punishable by up to 10 years' imprisonment or a fine of not more than \$20,000, or both.

The bill would not prohibit a person from being charged with, convicted or, or punished for any other violation of law arising out of the same transaction as the violation specified in the bill.

"Dangerous weapon" would mean a knife, stabbing instrument, brass knuckles, blackjack, club, or other object specifically designed or customarily carried or possessed for use as a weapon.

"School" and "school property" would mean those terms as defined in Section 237a. (That section defines a school as a public, private, denominational, or parochial school offering development kindergarten, kindergarten, or any grade from one through 12. "School property" means a building, playing field, or property used for school purposes to impart instruction to children or used for functions and events sponsored by a school, except a building used primarily for adult education or college extension courses.)

Proposed MCL 750.235b (H.B. 5942)  
MCL 777.16m (H.B. 4953)

Legislative Analyst: Stephen Jackson

## **FISCAL IMPACT**

### **House Bill 5942**

The bill would have a negative fiscal impact on the State and local government. To the extent that changes in the bill lead to increased misdemeanor and felony arrests and prosecutions, it could increase resource demands on law enforcement, court systems, jails, and correctional facilities. However, it is unknown how many people would be prosecuted under provisions of the bill. The average cost to State government for felony probation supervision is approximately \$3,024 per probationer per year. For any increase in prison intakes, in the short term, the marginal cost to State government is approximately \$5,315 per prisoner per year. Any increased penal fine revenue would be dedicated to public libraries.

### **House Bill 5943**

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. 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 depends on judicial decisions.

Fiscal Analyst: Abbey Frazier

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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.