

Legislative Analysis



LOCAL GOVERNMENT AND COUNTY LAW ENFORCEMENT PROTECTION ACTS

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

House Bill 4083 (H-1) as referred to second committee
Sponsor: Rep. Pamela Hornberger

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

House Bill 4090 (H-1) as referred to second committee
Sponsor: Rep. Beau Matthew LaFave

1st Committee: Military, Veterans and Homeland Security
2nd Committee: Ways and Means
Complete to 4-22-19

SUMMARY:

House Bills 4083 and 4090 would create two new acts called, respectively, the Local Government Law Enforcement Protection Act and the County Law Enforcement Protection Act. The new acts would prohibit local laws that prevent peace officers or local officials from cooperating with federal authorities regarding an individual's immigration status.

House Bill 4083 would apply to *local units of government*, defined as: cities, villages, townships, and charter townships; officers and officials of those entities; and boards, departments, commissions, councils, agencies, or other bodies created or primarily funded by those entities.

House Bill 4090 would apply to *counties*, defined as: county boards of commissioners; county officers or officials; and boards, departments, commissions, councils, agencies, or other bodies created or primarily funded by a county.

The new acts would prohibit local units of government and counties from enacting or enforcing a law, ordinance, policy, or rule that limits or prohibits a peace officer or local official, officer, or employee from communicating or cooperating with appropriate federal officials concerning the immigration status of an individual in Michigan. Any law that violated the applicable act would be void and unenforceable. A local unit of government or county with an existing law that violated the applicable act would have 60 days after that act took effect to bring the law into compliance with the act.

Beginning 61 days after the applicable act took effect, a resident of a local unit of government or a county that had, enacted, or enforced a law violating the act could either file a complaint with the attorney general or bring an action to enforce the act in the circuit court where the local unit or county is located.

The attorney general could receive and investigate complaints regarding violations of the new acts. A local unit of government or county would have to cooperate with such an investigation.

Beginning 61 days after the applicable act took effect, if a local unit of government or county had, enacted, or enforced a law violating the act, the attorney general would have to bring an action to enforce the act in the circuit court where the local unit or county is located.

In an action brought by a resident or the attorney general as described above, if the court determined that the law violated the act, the court would have to do all of the following:

- Issue an injunction restraining enforcement of the law.
- Order the local unit of government or county to amend or repeal the law.
- Award actual damages, costs, and reasonable attorney fees to the party challenging the law.

Under House Bill 4083 (local units), but **not** under House Bill 4090 (counties), the court would also have to assess a civil fine of between \$2,500 and \$7,500 against any elected or appointed official who the court determined knowingly and willfully enacted or enforced a law in violation of the act. The civil fine would be in addition to any other penalty provided by law.

FISCAL IMPACT:

Local units of government: House Bills 4083 and 4090 would create minimal administrative costs for those local units of government not in compliance with the provisions of the bill upon enactment. Any administrative actions taken to bring the local unit of government into compliance would likely be absorbed under its current appropriation levels and in the normal course of business. Local units of government already in compliance with the provisions of the bills would realize no fiscal impact. Local units of government deemed to be in violation of the provisions of the bills could face increased costs if actions were brought against them for noncompliance. Costs could include legal costs, damages, and fines. Cities, villages, townships, and charter townships would be the only local units of government subject to fines.

Local law enforcement: The bills would not have a significant fiscal impact on any law enforcement agency in this state.

Attorney General: The bills' fiscal impact on the Department of the Attorney General would depend on the number of complaints submitted to the attorney general and the number of investigations initiated as a result. If the number of investigations exceeds the case load capacity of the investigators currently staffed by the attorney general and additional investigators are needed, the attorney general would incur costs of additional hires. The full-time equivalent cost of an investigator is \$110,000 a year.

Judiciary: The bills would have an indeterminate fiscal impact on the state and on local court funding units. Costs would be incurred depending on how the provisions of the bills affected caseloads in the courts and related administrative costs. If civil fines are assessed by the courts, an increase in civil fine revenue would occur; however, the bill does not specify where the revenue would be dedicated. Typically, the fund to receive the civil fine revenue would be specified in the legislation. In this case, it could, by default, be an increase to the state's General Fund. Or, in the absence of statutory direction, it might be subject to the discretion of the court imposing the fine.

POSITIONS:

A representative of the Michigan Catholic Conference testified to a neutral position on the bills. (4-19-19)

Representatives of the following organizations and entities testified in opposition to the bills (4-9-19):

- Ingham County Sheriff's Office
- American Civil Liberties Union (ACLU)
- Michigan Coalition for Human Rights
- Michigan Unitarian Universalist Social Justice Network
- Michigan United
- Stop Trump Ann Arbor

The following organizations and entities indicated opposition to the bills (4-9-19):

- Michigan Department of Civil Rights
- Michigan Sheriff's Association
- Michigan Township Association
- Michigan Association of Counties
- Michigan Municipal League
- League of Women Voters
- Washtenaw County Sheriff's Office
- Wayne County
- Action Network of Lansing
- Code Legal Aid
- Evangelical Lutheran Church in America
- Fems for Change
- Indivisible Huron Valley
- Michigan Caring Majority
- Michigan Coalition for Immigrant and Refugee Rights
- Michigan Immigrant Right Center
- Michigan League for Public Policy
- Michigan Office of New Americans
- Mt. Hope Presbyterian Church
- St. Francis Maximilian Church
- St. Clement Church

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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.