

ENHANCED PENALTIES FOR ASSAULT ON HEALTH PROFESSIONAL OR MEDICAL VOLUNTEER

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House Bills 4327 and 4328 as introduced

Sponsor: Rep. Hank Vaupel

Committee: Judiciary

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

BRIEF SUMMARY:

House Bill 4327 would extend to health professionals and medical volunteers who provide direct patient care the same protections in law from physical attacks that are afforded to law enforcement officers, firefighters, persons engaged in a search-and-rescue operation, and emergency service personnel when performing their duties.

House Bill 4328 would place the maximum terms of imprisonment for a violation of House Bill 4327 in the sentencing guidelines.

Each bill would take effect 90 days after enactment.

DETAILED SUMMARY:

House Bill 4327 would amend section 81d of the Michigan Penal Code, which currently prescribes criminal penalties for an individual who assaults, batters, wounds, resists, obstructs, opposes, or endangers a *person* whom the individual knows or has reason to know is performing his or her duties. For purposes of this section, *person* is defined to mean any of the following:

- A police officer of this state or of a political subdivision of this state, including a motor carrier officer or Capitol security officer of the Department of State Police.
- A police officer of a junior college, college, or university who is authorized to enforce state law and the rules and ordinances of that institution.
- A conservation officer of the Department of Natural Resources or Department of Environmental Quality [now the Department of Environment, Great Lakes, and Energy].
- A conservation officer of the U.S. Department of the Interior.
- A sheriff or deputy sheriff.
- A constable.
- A peace officer of a duly authorized police agency of the United States, including an agent of the Secret Service or Department of Justice.
- A firefighter.
- Emergency medical service personnel.
- An individual engaged in a search-and-rescue operation as that term is defined in section 50c of the Code.

The bill would prescribe the same criminal penalties for an individual who assaults, batters, wounds, or endangers a *health professional* or *medical volunteer*.

Health professional would mean either of the following:

- An individual who is employed by a public or private hospital, health system, or health care provider, whose duties within the scope of that employment involve providing direct patient care, and whose duties require licensure, certification, or other regulation under the Public Health Code or supervision by another individual regulated under the Public Health Code.
- An individual who is providing indirect patient care under the direction of a hospital, health system, or health care provider.

Medical volunteer would mean either of the following:

- An individual who is volunteering at a hospital, in a health system, or with a health care provider, whether operated by a governmental unit or a private entity, and whose duties involve the provision of direct patient care.
- An individual who is providing indirect patient care under the direction of a hospital, health system, or health care provider.

Reporting assaults

If a violent act against a health care provider or medical volunteer was committed by an individual with a disability or disease and was a clear and direct manifestation of the individual's health condition, reporting the incident to a local law enforcement agency with jurisdiction to investigate alleged criminal acts where the health facility or agency is located would be discretionary for, and not required of, the hospital, health system, health care provider, or health professional.

Penalties

The penalties are tiered based on the severity of the underlying offense. The following felony penalties apply currently and would also apply to conduct against a health professional or medical volunteer under the bill:

- A violation with no injuries to a person is punishable by imprisonment for up to 2 years and/or a fine of up to \$2,000.
- A violation causing a bodily injury requiring medical attention or medical care is punishable by imprisonment for up to 4 years and/or a fine of up to \$5,000.
- A violation causing a serious impairment of a bodily function (as defined in section 58c of the Michigan Vehicle Code) is punishable by imprisonment for up to 15 years and/or a fine of up to \$10,000.
- A violation causing death is punishable by imprisonment for up to 20 years and/or a fine of up to \$20,000.

MCL 750.81d

House Bill 4328 would amend the Code of Criminal Procedure to specify that assaulting, battering, or endangering a health professional or medical volunteer is a Class G felony against a person with a two-year maximum term of imprisonment. The bill would also

revise the current sentencing guidelines involving an injury, serious impairment, or death to the persons listed in section 81d of the Michigan Penal Code to include injury, serious impairment, or death to a health professional or medical volunteer.

House Bill 4328 is tie-barred to HB 4327, which means that it could not take effect unless HB 4327 were also enacted.

MCL 777.16d

BACKGROUND INFORMATION:

House Bills 4327 and 4328 are identical to, respectively, House Bills 6203 and 6204 of the 2017-18 legislative session and are similar to, respectively, Senate Bills 250 and 360 of the 2013-14 legislative session. Senate Bills 250 and 360 included only health professionals providing direct patient care and did not include medical volunteers or those providing indirect patient care.

FISCAL IMPACT:

Any new felony convictions under House Bill 4327 would result in increased costs related to state prisons and state probation supervision if the convictions result in imprisonment. In fiscal year 2018, the average cost of prison incarceration in a state facility was roughly \$38,000 per prisoner, a figure that includes various fixed administrative and operational costs. State costs for parole and felony probation supervision averaged about \$3,700 per supervised offender in the same year. Those costs are financed with state general fund/general purpose revenue. Any fiscal impact on the local court systems would depend on how provisions of the bill affect 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 4328 is a companion bill to House Bill 4327 and amends sentencing guidelines. The bill would not have a direct fiscal impact on the state or on local units of government.

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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.