



Senate Fiscal Agency
P.O. Box 30036
Lansing, Michigan 48909-7536

BILL ANALYSIS



Telephone: (517) 373-5383
Fax: (517) 373-1986

House Bill 4315 (Substitute H-2 as passed by the House)
House Bill 4316 (Substitute H-3 as passed by the House)
Sponsor: Representative Mike Mueller (H.B. 4315)
Representative David LaGrand (H.B. 4316)
House Committee: Judiciary
Senate Committee: Judiciary and Public Safety

Date Completed: 1-29-20

CONTENT

House Bill 4315 (H-2) would amend the Michigan Penal Code to prohibit a person from taking a firearm from a peace officer or a corrections officer if, among other things, the person used force or violence or caused a serious or aggravated injury to the officer in attempting to take the firearm, and prescribe a felony penalty for a violation.

House Bill 4316 (H-3) would amend the sentencing guidelines in the Code of Criminal Procedure to include the felony proposed by House Bill 4315 (H-2) as a Class C felony against a person with a statutory maximum sentence of 20 years' imprisonment.

House Bill 4316 (H-3) is tie-barred to House Bill 4315. Each bill would take effect 90 days after its enactment.

House Bill 4315 (H-2) is discussed in greater detail below.

The Penal Code specifies that an individual who takes a firearm from the lawful possession of a peace officer or a corrections officer is guilty of a felony punishable by up to 10 years' imprisonment or a maximum fine of \$5,000, or both, if all of the following circumstances exist at the time the firearm is taken:

- The individual knew or had reason to believe the person from whom the firearm was taken was a peace officer or corrections officer.
- The officer or was performing his or her duties as a peace officer or corrections officer.
- The individual took the firearm without the consent of the peace officer or corrections officer.
- The officer was authorized by his or her employer to carry the firearm in the line of duty.

"Peace officer means one or more of the following: a) police officer of the State or a political subdivision of the State; b) a police officer or any entity of the United States; c) the sheriff of a Michigan county or his or her deputy; d) a public safety officer of a college or university who is authorized by the governing board of that college or university to enforce State law and rules and ordinances of that college or university; e) a conservation officer of the Department of Natural Resources; or f) a conservation officer of the United States Department of the Interior. "Corrections officer" means a prison or jail guard or other employee of a jail or a State or Federal correctional facility, who performs duties involving the transportation, care, custody, or supervision of prisoners.

Under the bill, an individual who took a firearm from the lawful possession of a peace officer or a corrections officer would be guilty of a felony punishable by up to 20 years' imprisonment or a maximum fine of \$5,000, or both, if all of the following circumstances existed at the time the firearm was taken:

- The individual knew or had reason to believe the person from whom the firearm was taken was a peace officer or corrections officer.
- The officer was performing his or her duties as a peace officer or corrections officer.
- The individual took the firearm without the consent of the peace officer or corrections officer.
- The peace officer or corrections officer was authorized by his or her employer to carry the firearm in the line of duty.
- The individual used force or violence in attempting to take the firearm or caused a serious or aggravated injury to the officer when he or she attempted to take the firearm.

A term of imprisonment imposed as described above could be served consecutively with and preceding any term of imprisonment imposed for another violation arising from the same transaction if the peace officer suffered a serious or aggravated injury as a result of the violation.

MCL 750.479b (H.B. 4315)
777.16x (H.B. 4316)

Legislative Analyst: Stephen Jackson

FISCAL IMPACT

House Bill 4315 (H-2)

The bill would have a negative fiscal impact on State and local government. New felony arrests and convictions under the proposed bill could increase resource demands on law enforcement, court systems, community supervision, jails, and correctional facilities. However, it is unknown how many people would be prosecuted under the bill's provisions. 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 additional revenue from imposed fines would go to local libraries.

House Bill 4316 (H-3)

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 ruled that 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: Joe Carrasco

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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.