

Legislative Analysis



MESSIAH'S LAW

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

House Bill 5225 as introduced
Sponsor: Rep. Amos O'Neal

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

House Bill 5226 as introduced
Sponsor: Rep. Cynthia Neeley

Committee: Criminal Justice
Complete to 6-3-24

SUMMARY:

House Bills 5225 and 5226 would provide increased penalties for a person who intentionally shoots at a house or other potentially occupied building and harms or kills a child in doing so.

House Bill 5225 would amend the Michigan Penal Code, which prohibits an individual from intentionally discharging a firearm *at* a facility that they know or have reason to believe is a dwelling or a ***potentially occupied structure*** (or, if done in reckless disregard for the safety of any individual, *in* such a facility), regardless of whether the facility is actually occupied at the time.¹ A violation is a felony punishable as follows:

- Imprisonment for up to 10 years or a fine of up to \$10,000, or both.
- If the violation causes any physical injury to another individual, imprisonment for up to 15 years or a fine of up to \$15,000, or both.
- If the violation causes the ***serious impairment of a body function*** of another individual, imprisonment for up to 20 years or a fine of up to \$25,000, or both.
- If the violation causes the death of another individual, imprisonment for life or any term of years.

Potentially occupied structure means a structure that a reasonable person knows or should know is likely to be occupied by one or more individuals due to its nature, function, or location.

Serious impairment of a body function includes one or more of the following:

- Loss of a limb or of its use.
- Loss of a foot, hand, finger, or thumb or of its use.
- Loss of an eye or ear or of its use.
- Loss of an organ.
- Loss or substantial impairment of a bodily function.
- Serious visible disfigurement.
- A comatose state that lasts for more than three days.
- Measurable brain or mental impairment.
- A skull fracture or other serious bone fracture.
- Subdural hemorrhage or subdural hematoma.

¹ These prohibitions do not apply to a peace officer performing their duties or a person acting in self-defense or defense of another.

The bill would add that a violation that causes harm to another individual who is a minor (under 18 years old) is a felony punishable as follows:

- If the violation causes any physical injury to the minor, imprisonment for up to 30 years or a fine of up to \$30,000, or both.
- If the violation causes the serious impairment of a body function of the minor, imprisonment for up to 40 years or a fine of up to \$50,000, or both.
- Except as provided in sections 25 and 25a of Chapter IX of the Code of Criminal Procedure,² if the violation causes the death of the minor, mandatory imprisonment for life without eligibility for parole.

As currently, a term of imprisonment imposed for a violation could run consecutively to any term of imprisonment imposed for another violation arising from the same transaction.

The provisions described above could be cited as “Messiah’s Law.”

MCL 750.234b

House Bill 5226 would amend the Code of Criminal Procedure to add the felonies proposed by HB 5225 to the sentencing guidelines. Discharging a firearm in or at a dwelling or potentially occupied structure causing physical injury to a minor would be a Class B crime against a person with a 30-year statutory maximum term of imprisonment. Discharging a firearm in or at a dwelling or potentially occupied structure causing serious impairment of a minor would be a Class B crime against a person with a 40-year statutory maximum term of imprisonment.

The felony of discharging a firearm in or at a dwelling or potentially occupied structure causing the death of a minor would not be added, as it has a mandatory term of life imprisonment, rather than a sentencing range, and thus would not be subject to the sentencing guidelines.

The bill could not take effect unless HB 5225 were also enacted.

MCL 777.16m

Each bill would take effect 90 days after its enactment.

BACKGROUND:

House Bill 5225 is called “Messiah’s Law” in memory of Messiah Williams, a three-year-old Flint child who was killed in his living room when several men opened fire on his family home the night of October 22, 2020.

The bills are substantively identical to House Bills 5027 and 5028 of the 2021-22 legislative session.

² These sections address sentences of life without parole for criminal defendants who were under 18 at the time of the violation. <https://www.legislature.mi.gov/Laws/MCL?objectName=mcl-769-25> and <https://www.legislature.mi.gov/Laws/MCL?objectName=mcl-769-25a>

FISCAL IMPACT:

House Bill 5225 would have an indeterminate fiscal impact on the state and on local units of government. The number of convictions that would result under provisions of the bill is not known. New felony convictions would result in increased costs related to state prisons and state probation supervision. In fiscal year 2023, the average cost of prison incarceration in a state facility was roughly \$48,700 per prisoner, a figure that includes various fixed administrative and operational costs. State costs for parole and felony probation supervision averaged about \$5,400 per supervised offender in the same year. Those costs are financed with state general fund/general purpose revenue. Any fiscal impact on the judiciary and local court systems would depend on how provisions of the bill affect court caseloads and related administrative costs. It is difficult to project the actual fiscal impact to courts due to variables such as law enforcement practices, prosecutorial practices, judicial discretion, case types, and complexity of cases. Any increase in penal fine revenue would increase funding for public and county law libraries, which are the constitutionally designated recipients of those revenues.

House Bill 5226 is a companion bill to HB 5225 and would amend the sentencing guidelines chapter of the Code of Criminal Procedure to include the felonies proposed in HB 5225. Discharging a firearm in or at a dwelling or potentially occupied structure causing physical injury to a minor would be a Class B felony punishable by a statutory maximum of 30 years. Discharging a firearm in or at a dwelling or potentially occupied structure causing serious impairment of a minor would be a Class B felony punishable by a statutory maximum of 40 years. 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.