



**House
Legislative
Analysis
Section**

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ASSAULTING OFFICERS

House Bill 5440

Sponsor: Rep. Jennifer Faunce

House Bill 5441

Sponsor: Rep. Larry Julian

House Bill 5442

Sponsor: Rep. Jerry O. Kooiman

House Bill 5443

Sponsor: Rep. Raymond Basham

Committee: Criminal Justice

Complete to 1-28-02

A SUMMARY OF HOUSE BILLS 5440-5443 AS INTRODUCED 11-1-01

House Bills 5440 and 5442 would amend the Michigan Penal Code to, among other things, increase penalties for causing bodily injury to peace officers and other governmental officers, respectively; the bills are tie-barred to each other. House Bills 5441 and 5443 would place the corresponding sentencing guidelines in the Code of Criminal Procedure; House Bill 5441 is tie-barred to House Bill 5440 and House Bill 5443 is tie-barred to House Bill 5442. Specifically, the bills would do the following:

Currently, it is a misdemeanor offense punishable by up to 2 years imprisonment, a fine up to \$1,000, or both to assault a peace or police officer, or to cause a bodily injury requiring medical care, while the officer is making a lawful arrest (and the person knew the individual to be a peace or police officer). House Bill 5440 would add Section 81d to the Michigan Penal Code (MCL 750.81d) to prohibit a person from assaulting or battering a peace officer who the person knew or had reason to know was acting in the performance of his or her duties. Penalties would be as follows:

- Assault or battery of a peace officer would be a felony punishable by imprisonment for up to two years or a fine of not more than \$1,000, or both.
- If the assault or battery inflicted bodily injury requiring medical attention or medical care, the offense would be a felony punishable by up to four years imprisonment, a fine of not more than \$5,000, or both.
- Inflicting serious injury would be felony punishable by up to 10 years in prison, a fine of not more than \$10,000, or both. (“Serious injury” is defined in Section 479a of the code.)
- Assault or battery that caused the death of a peace officer would be a felony punishable by imprisonment for up to 20 years or a fine of not more than \$20,000, or both.

House Bills 5440-5443 (1-28-02)

An individual prosecuted under the bill could also be prosecuted for any other violation of law that was committed in conjunction with the assault or battery of a peace officer, and could be ordered to serve the term of imprisonment imposed under the bill consecutively to any other terms imposed. For the purposes of the bill, “peace officer” would be defined as:

- a police officer of this state or a political subdivision of this state, including, but not limited to, a motor carrier officer of the Department of State Police;
- a police officer of another state, a political subdivision of another state, or of any entity of the United States;
- a county sheriff or his or her deputy;
- a public safety officer of a community college, college, or university who is authorized by the institution’s governing board to enforce the law of this or any other state and the institution’s rules and ordinances; or
- a conservation officer of the Michigan Department of Natural Resources, of another state, or of the U.S. Department of Interior.

(Note: The definition of “peace officer” contained in the bill differs slightly from the definition found in Section 479b of the code.)

House Bill 5441 would amend the Code of Criminal Procedure (MCL 777.16d) to specify that assaulting or battering a peace officer would be a Class G felony against a person with a two-year maximum sentence of imprisonment, assaulting or battering a peace officer causing bodily injury requiring medical attention or medical care would be a Class F felony against a person with a four-year maximum term of imprisonment, assaulting or battering a peace officer causing serious injury would be a Class D felony against a person with a 10-year maximum sentence of imprisonment, and assaulting or battering a peace officer causing death would be a Class B felony against a person with a 20-year maximum term of imprisonment. (Note: The bill contains an apparent typographical error; House Bill 5440 would create Section 81d, but House Bill 5441 refers to Section 81c.)

House Bill 5442 would also amend the Michigan Penal Code (MCL 750.479 and 750.479a). Currently, Section 479 of the code makes it a misdemeanor (punishable by up to two years imprisonment and/or a fine of not more than \$1,000, to assault, beat, or wound a sheriff, coroner, township treasurer, or constable or other authorized officer who was serving or executing any process, rule, or order. The bill would replace the term “coroner” with “medical examiner” and would delete the reference to a sheriff or constable and refer instead to a duly authorized officer other than a peace officer, a township treasurer, or a medical examiner. “Peace officer” would be defined as it is in House Bill 5440.

Further, the bill would prohibit a person from assaulting, beating, or wounding anyone described in the bill or any other individual authorized by law to maintain and preserve the peace, other than a peace officer, in his or her lawful acts, attempts, or efforts to maintain, preserve, and keep the peace. (Current provisions in the code pertaining to obstructing, resisting,

or opposing designated persons – that did not result in an injury or an assault or battery on the person - would still apply to a sheriff or constable.)

If a violation of the bill’s provisions inflicted bodily injury requiring medical attention or medical care on a person described in the bill, the penalty would be a felony punishable by up to four years imprisonment, a fine of not more than \$5,000, or both. Finally, the bill would delete the provision that makes assaulting a peace or police officer, or causing a bodily injury requiring medical care, a misdemeanor offense.

House Bill 5443 would amend the Code of Criminal Procedure (MCL 777.16x) to specify that resisting, obstructing, assaulting, beating, or wounding certain officers would be a Class G felony against a person with a maximum sentence of imprisonment of two years. Resisting, obstructing, assaulting, beating, or wounding certain officers inflicting bodily injury requiring medical attention or medical care would be a Class G felony against a person with a maximum sentence of imprisonment of four years. The bill would delete the provision that specifies that assaulting a peace officer is a Class H felony with a maximum sentence of imprisonment of two years.

In addition, legislation over the past several years made many changes to penalties for various crimes. Not all of the changes were reflected in the sentencing guidelines. Therefore, the bill would also amend several of the guidelines to incorporate the descriptions of crimes pertaining to withholding or offering false evidence.

Analyst: S. Stutzky

■This analysis was prepared by nonpartisan House staff for use by House members in their deliberations, and does not constitute an official statement of legislative intent.