



Senate Fiscal Agency
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BILL



ANALYSIS

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Senate Bill 250 (Substitute S-2 as passed by the Senate)
Senate Bill 360 (Substitute S-1 as passed by the Senate)
Sponsor: Senator Goeff Hansen
Committee: Judiciary

Date Completed: 7-16-13

RATIONALE

Nearly 2 million American workers report having been victims of workplace violence each year, and many more cases go unreported, according to the Federal Occupational Safety & Health Administration (OSHA). Health care workers have been identified by research and statistics as being particularly at risk. According to the Michigan Nurses Association, violence toward health care workers has risen in recent years, and more than half of emergency department nurses nationwide have been physically assaulted at work. Some people believe that enhanced criminal penalties could provide a deterrent to workplace violence against health professionals and, compared with existing penalties, would more adequately punish those who did assault a health professional.

CONTENT

Senate Bill 250 (S-2) would amend the Michigan Penal Code to prohibit and prescribe felony penalties for assaulting, battering, wounding, or endangering a health professional performing his or her duties.

Senate Bill 360 (S-1) would amend the Code of Criminal Procedure to include in the sentencing guidelines the felonies proposed by Senate Bill 250 (S-2).

Senate Bill 360 (S-1) is tie-barred to Senate Bill 250. The bills would take effect 90 days after their enactment.

Senate Bill 250 (S-2)

The Penal Code prescribes criminal penalties for an individual who assaults, batters, wounds, resists, obstructs, opposes, or endangers a person who is a police officer, peace officer, firefighter, emergency medical service personnel, or other listed person, whom the individual knows or has reason to know is performing his or her duties.

The bill also would prescribe criminal penalties for an individual who assaulted, battered, wounded, or endangered a health professional whom the individual knew or had reason to know was performing his or her duties.

A violation of the current prohibition is a felony punishable by up to two years' imprisonment and/or a maximum fine of \$2,000. If the violation causes a bodily injury requiring medical attention or medical care, it is punishable by up to four years' imprisonment and/or a maximum fine of \$5,000. If the violation causes serious impairment of a body function, it is punishable by up to 15 years' imprisonment and/or a maximum fine of \$10,000. A violation causing death is punishable by up to 20 years' imprisonment and/or a maximum fine of \$20,000. A term of imprisonment may run consecutively to any term of imprisonment imposed for another violation arising from the same transaction.

Under the bill, the same penalties would apply to a person who assaulted, battered, wounded, or endangered a health professional knowing or having reason to know that he or she was performing his or her duties.

"Health professional" would mean an individual who is employed by a hospital, health system, or health care provider, and whose duties involve the provision of direct patient care and require licensure, certification, or other regulation under the Public Health Code or supervision by another person who is regulated under the Code.

Senate Bill 360 (S-1)

Under the bill, assaulting, battering, or endangering a health professional would be a Class G felony against a person, with a statutory maximum sentence of two years' imprisonment.

The bill also would include assaulting, resisting, or obstructing health professionals in the current sentencing guidelines, as shown in Table 1.

Table 1

Offense	Class & Category	Stat. Max. Sentence
Assaulting, resisting, or obstructing certain people causing injury	F-Person	4 years
Assaulting, resisting, or obstructing certain people causing serious impairment	C-Person	15 years
Assaulting, resisting, or obstructing certain people causing death	B-Person	20 years

MCL 750.81d (S.B. 250)
777.16d (S.B. 360)

ARGUMENTS

(Please note: The arguments contained in this analysis originate from sources outside the Senate Fiscal Agency. The Senate Fiscal Agency neither supports nor opposes legislation.)

Supporting Argument

Violence against health care professionals is a serious and growing problem. An official with the Michigan Nurses Association testified before the Senate Judiciary Committee that more than half of emergency department nurses have been physically assaulted at work, and that one in four nurses has experienced such violence more than 20 times in the past three years.

According to OSHA, "[H]ealth care and social service workers have faced a significant risk of job-related violence" and assaults are "a serious safety and health hazard within these industries" ("Guidelines for Preventing Workplace Violence for Health Care & Social Service Workers"). The OSHA report cites Bureau of Labor Statistics (BLS) data showing that 48% of all nonfatal injuries from occupational assaults and violent acts in 2000 occurred in health care and social services, with most of those incidents occurring in hospitals and other care facilities. That year, according to the BLS data, for every 10,000 full-time workers, 9.3 health services workers suffered injuries resulting from assault and violent acts, compared to an injury rate of 2.0 for the private sector overall. The rate was 25.0 for workers in nursing and personal care facilities. While these data may appear to be dated, there is no reason to believe the solution has improved, based on the Committee testimony.

In addition, according to a recent news report, hospitals in the Detroit area, Lansing and across the country have found it necessary to increase security measures to protect workers from emergency room violence ("Detroit area hospitals fight to stem emergency room violence", *Detroit News*, 7-1-13). The article cited a monthly survey of emergency department workers at six hospitals in Michigan and Ohio. Over nine months, surveyed hospital employees reported 601 threats of violence and 226 actual assaults. The article also reported on another survey, conducted by the Institute for Emergency Nursing Research between May 2009 and January 2011, which found that 12.1% of over 7,000 emergency nurses surveyed had been physically assaulted and 42.5% had been verbally abused. Both surveys found significant under-reporting of emergency room incidents, according to the article.

By establishing graduated felony penalties for people who assault and injure health professionals while they perform their professional duties, the bills would recognize the high risk of workplace violence for many health care workers in Michigan.

The bills also would more adequately punish offenders who attack the very people providing care for them, and could serve as a deterrent to such violent actions. Under

current law, for example, a "simple" assault or assault and battery is a misdemeanor punishable by imprisonment for up to 93 days and a \$500 maximum fine. An unarmed assault that inflicts serious or aggravated injury also is a misdemeanor, with a maximum term of one year's incarceration and a fine of up to \$1,000. Under the bills, assaulting, battering, wounding, or endangering a health professional while he or she was performing his or her duties would be a felony punishable by up to two years' imprisonment and/or a maximum fine of \$2,000, with increasingly severe penalties for a violation that caused bodily injury, serious impairment, or death.

Legislative Analyst: Patrick Affholter

FISCAL IMPACT

The bills would result in an indeterminate increase in costs of incarceration and community supervision. In 2011, there were 3,014 individuals convicted of the crime that would be expanded under Senate Bill 250 (S-2): 2,824 individuals were convicted of the base offense, 180 were convicted of causing bodily injury, nine were convicted of causing serious impairment, and one was convicted of causing death.

Fiscal Analyst: Dan O'Connor

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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.