

Legislative Analysis



CREATE PUBLIC THREAT ALERT SYSTEM

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

House Bill 5442 as enrolled
Public Act 235 of 2016
Sponsor: Rep. Brandt Iden

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

House Bill 5567 as enrolled
Public Act 236 of 2016
Sponsor: Rep. David C. Maturen

Senate Bill 976 as enrolled
Public Act 234 of 2016
Sponsor: Sen. Mike Nofs

Committee: Regulatory Reform
Complete to 7-25-16

BRIEF SUMMARY:

House Bill 5442 creates a new act, the "Public Threat Alert System Act." This act deals with notifications to be delivered during emergencies, including active shooter situations, and makes falsely reporting a public threat a felony.

House Bill 5567 amends Section 1f of the Code of Criminal Procedure by adding *the false reporting of a public threat* to a list of offenses where the convicted may be ordered to reimburse the state or local unit of government for expenses incurred as a result of the offense.

Senate Bill 976 classifies the new felony as a Class F felony and add it to the Code of Criminal Procedure.

The bills take effect September 22, 2016.

FISCAL IMPACT:

House Bill 5442 would have a nominal fiscal impact on the Department of State Police (MSP). According to the MSP, the department would be able to utilize existing alert system infrastructure associated with Blue Alert—the program that alerts the public if a police officer is killed or injured and the suspect has not been apprehended—to implement the Public Threat Alert plan. Any costs incurred by implementing the plan would be minor.

Further, to the extent that House Bill 5442 results in a greater number of convictions, it would increase costs on state and local correctional systems. New felony convictions would result in increased costs related to state prisons, county jails, and/or state probation supervision. The average cost of prison incarceration in a state facility is roughly \$35,300 per prisoner per year, a figure that includes various fixed administrative and operational costs. The costs of local incarceration in a county jail and local misdemeanor probation supervision vary by jurisdiction. State costs for parole and felony probation supervision average about \$3,600 per supervised offender per year. Any increase in penal fine revenues would increase funding for local libraries, which are the constitutionally designated recipients of those revenues.

House Bill 5567 would have an indeterminate fiscal impact on the state and on local units of government. The fiscal impact would depend on the number of persons ordered to reimburse

the state or local units for expenses incurred in relation to incidences of false reports of public threats, and would depend on the expenses they were ordered to pay.

Senate Bill 976 amends sentencing guidelines and does not have a direct fiscal impact on the state or on local units of government.

DISCUSSION:

On February 20, 2016, a shooting spree in and around Kalamazoo, Mich., resulted in several fatalities and additional injuries. Though local media broke news of the shootings shortly after the first occurred, no alert was issued by a local governmental unit or law enforcement agency warning citizens in the area of shooting spree. HB 5442 would create an alert system to notify citizens in a specific area of an ongoing public threat so necessary precautions could be taken and so that confirmed information could be disseminated in an orderly fashion.

Currently, there are two types of emergency alerts which are broadcast during specific instances. When a law enforcement officer is killed or seriously injured and the suspect is identified and considered to be on the loose and dangerous, a "blue alert" can be sent with relevant information about that suspect. When a child is missing, relevant information about that child is sent out using the amber alert system.

Implementing this additional system, proponents of the bill say, will increase awareness of a public threat and decrease the possibility of additional casualties or confusion.

During deliberations, critics of the legislation questioned creating a separate alert system for the public threat, as opposed to combining it with the existing alert systems for a uniform approach to disseminating urgent information to the public. Also of concern was that the creation of the new felony was not sent to the Criminal Justice Police Review Commission prior to being voting on by the legislature.

According to its webpage, the Commission is charged with the following duties: Collecting, preparing, analyzing, and disseminating information regarding state and local sentencing and proposed release policies and practices for felonies and the use of prisons and jails; collecting and analyzing information concerning how misdemeanor sentences and the detention of defendants pending trial affect local jails; conducting ongoing research regarding the effectiveness of the sentencing guidelines; and, in cooperation with the Department of Corrections, collecting, analyzing, and compiling data and making projections regarding the populations and capacities of state and local correctional facilities, the impact of the sentencing guidelines and other laws, rules, and policies on those populations and capacities, as well as the effectiveness of efforts to reduce recidivism.

The bill was supported at the committee level in the House by a wide range of interests, including the Kalamazoo County Sheriff and Kalamazoo County Prosecutor, Michigan State Police, the Michigan Manufacturers Association, the National Federation of Independent Businesses, the Michigan Communication Directors Association, the Michigan Association of Non Public Schools, the Michigan Association of Insurance Agents, the Michigan Restaurant Association, Telecom Association of Michigan, Grand Rapids Chamber of Commerce, Michigan Association of School Boards, Michigan Institute of Launderers and Drycleaners, Michigan Lodging and Tourism Association, Michigan Catholic Conference, Michigan

Chamber of Commerce, Michigan Retailers Association, Michigan Grocers Association, Small Business Association of Michigan, Michigan Municipal League, the Legislative Action Subcommittee of the State 911 Committee, the Michigan Association of Secondary School Principals, and the Barry, Branch, Calhoun, Jackson, Lenawee, and Monroe Intermediate School Districts. The Michigan Association of Broadcasters was neutral.

THE CONTENT OF THE BILLS:

Public Threat Alert System

House Bill 5442 requires the Department of State Police (MSP) to establish and maintain the "public threat alert system plan," which would be activated only in accordance with the policies established by the department. The plan would be designed to rapidly disseminate useful information in a predetermined manner to radio and television stations within Michigan and to send text messages to wireless 2-way communications devices, including cell phones.

The bill defines "public threat" as "a clear, present, persistent, ongoing, and random threat to public safety. A public threat would include, but not be limited to, an act of terrorism, an unresolved mass shooting, or an unresolved mass shooting spree."

The bill also prohibits a person from intentionally making a false report of a public threat, or intentionally causing a such a false report to be made, to a peace officer, police agency of this state or of a local unit of government, 9-1-1 operator, or any other governmental employee or contractor or employee of a contractor who is authorized to receive the report, knowing that the report is false. A person who violates this would guilty of a felony punishable by imprisonment for not more than four years, a fine of not more than \$2,000, or both.

The court could order a person convicted of that felony to pay to the state or a local unit of government and the media the costs of responding to the false report or threat, including, but not limited to, use of police or fire emergency response vehicles and teams. House Bill 5567 also provides for this reimbursement in the Code of Criminal Procedure. Senate Bill 976 puts the new felony into sentencing guidelines.

Legislative Analyst: Josh Roesner
Fiscal Analyst: Kent Dell
Robin Risko

■ 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.