



Senate Fiscal Agency
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BILL ANALYSIS



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Senate Bill 976 (as enacted)
House Bills 5442 and 5567 (as enacted)
Sponsor: Senator Mike Nofs (S.B. 976)
Representative Brandt Iden (H.B. 5442)
Representative David C. Maturen (H.B. 5567)
Senate Committee: Judiciary
House Committee: Communications and Technology

PUBLIC ACT 234 of 2016
PUBLIC ACTS 235 & 236 of 2016

Date Completed: 11-4-16

CONTENT

House Bill 5442 created the "Public Threat Alert System Act" to do the following:

- Require the Michigan Department of State Police (MSP) to establish and maintain a public threat alert system plan.
- Require the alert system plan to disseminate information rapidly to radio and television stations and to wireless devices through the emergency alert system operated under Federal law.
- Prohibit and prescribe a felony penalty for intentionally and knowingly making a false report of a public threat.
- Authorize a court to order a person convicted of making a false report to pay the State or a local unit of government, and the media, the cost of responding to the false report.

House Bill 5567 amended the Code of Criminal Procedure to authorize a sentencing court to order an offender to reimburse the State or a local unit for expenses incurred in relation to a false report of a public threat.

Senate Bill 976 amended the Code of Criminal Procedure to include the felony enacted by House Bill 5442 in the sentencing guidelines.

Each of the bills took effect on September 22, 2016.

House Bill 5442**Alert System Plan**

The MSP is required to establish and maintain the public threat alert system plan. The plan must be designed to rapidly disseminate useful information in a predetermined manner to radio and television stations within Michigan and to wireless devices through the existing wireless emergency alert system operated under Federal law. The plan may be activated only in accordance with the policies established by the MSP.

"Public threat" is defined as a clear, present, persistent, ongoing, and random threat to public safety. The term includes an act of terrorism, an unresolved mass shooting, or an unresolved mass shooting spree.

False Report

A person is prohibited from intentionally making a false report of a public threat, or intentionally causing a false report of a public threat to be made, to a peace officer, police agency of the State or 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 the report to be false. A violation is a felony punishable by up to four years' imprisonment, a maximum fine of \$2,000, or both.

The court may order a person convicted of making a false report to pay the State or a local unit of government, and the media, the costs of responding to the false report or threat, including the use of police or fire emergency response vehicles and teams.

House Bill 5567

Under the Code of Criminal Procedure, as part of the sentence for a conviction of certain offenses, in addition to any other penalty authorized by law, the court may order the offender to reimburse the State or a local unit for expenses incurred in relation to that incident, including expenses for an emergency response and the expenses of prosecution. The bill includes among those offenses intentionally making a false report of a public threat, or intentionally causing a false report of a public threat to be made, to a peace officer, police agency, 9-1-1 operator, or any other governmental employee or contractor authorized to receive the report.

(Expenses for which reimbursement may be ordered include all of the following:

- The salaries or wages, including overtime pay, of law enforcement, fire department, and emergency medical service personnel.
- The cost of medical supplies lost or used by fire department and emergency medical service personnel.
- The salaries, wages, or other compensation, including overtime pay, of prosecution personnel.
- The cost of extraditing a person from another state to Michigan.)

Senate Bill 976

Under the bill, a false report of a public threat is a Class F public safety felony with a statutory maximum sentence of four years' imprisonment.

MCL 777.11b (S.B. 976)
28.671-28.674 (H.B. 5442)
769.1f (H.B. 5567)

Legislative Analyst: Patrick Affholter

FISCAL IMPACT

House Bill 5442

The bill will have a minimal fiscal impact on the Department of State Police. New responsibilities, which may include the development and maintenance of the Public Threat Alert System and adjustments to information technology systems, will have essentially a neutral fiscal impact on the MSP's Special Operations Division and will be assumed within existing resources, according to the Department.

The bill's felony provision will have a negative fiscal impact on State and local government. An increase in felony prosecutions and convictions may increase resource demands on local court systems, law enforcement, and prisons. For any increase in prison intakes, in the short term, the marginal cost to State government will be approximately \$3,764 per prisoner per year. In the long term, if the increased intake of prisoners increased the total prisoner population enough to require the Department of Corrections to open a housing unit or an entire facility, the marginal cost to State government would be approximately \$34,550 per prisoner per year. Any increase in fine revenue will be dedicated to public libraries.

House Bill 5567

Along with the corresponding provision of House Bill 5442, the bill will likely have a positive fiscal impact on State and local government. The size of impact will be determined by how many individuals are convicted of making a false report of a public threat, the cost of responding to those reports, and the amount of restitution ultimately paid by each defendant.

Senate Bill 976

The bill will 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 struck down portions of the sentencing guidelines law). According to one interpretation of that decision, the sentencing guidelines are advisory for all cases. This means that the addition to the guidelines under the bill is not compulsory for the sentencing judge. As penalties for felony convictions vary, the fiscal impact of any given felony conviction depends on judicial decisions.

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