



Senate Fiscal Agency  
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## BILL ANALYSIS



Telephone: (517) 373-5383  
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House Bill 4118 (Substitute H-1 as passed by the House)  
House Bill 4119 (Substitute H-2 as passed by the House)  
Sponsor: Representative Klint Kesto (H.B. 4118)  
Representative Brandt Iden (H.B. 4119)  
House Committee: Judiciary  
Senate Committee: Judiciary

Date Completed: 2-15-18

**CONTENT**

**House Bill 4119 (H-2) would amend the Michigan Penal Code to prescribe a felony penalty for a detainee or prisoner who knowingly threw bodily material at an employee or volunteer performing his or her duties in a holding cell, holding center, lockup, jail, or State correctional facility, or caused such an employee or volunteer to come into contact with bodily material.**

**House Bill 4118 (H-1) would amend the Code of Criminal Procedure to include the proposed felony in the sentencing guidelines as a Class F offense against a person with a statutory maximum of four years' imprisonment.**

House Bill 4118 (H-1) is tie-barred to House Bill 4119, and would take effect 90 days after it was enacted.

A more detailed description of House Bill 4119 (H-2) follows.

The bill would add Section 411x to the Penal Code to provide that a detainee or prisoner in a holding cell, holding center, lockup, jail, or State correctional facility who knowingly did either of the following would be guilty of a felony punishable by imprisonment for up to four years or a maximum fine of \$2,000, or both:

- Threw or attempted to throw any bodily material, that came into contact with any employee or volunteer performing his or her duties in that holding cell, holding center, lockup, jail, or State correctional facility.
- Caused or attempted to cause any employee or volunteer performing his or her duties in that holding cell, holding center, lockup, jail, or State correctional facility to come into contact with any bodily material,

Section 411x would not apply to a prisoner or detainee who violated these provisions because he or she had a mental illness or intellectual disability for which he or she had received a diagnosis by a mental health professional or for which the prisoner or detainee was currently receiving treatment by a mental health professional.

Section 411x would not prohibit a person from being charged with, convicted of, and sentenced for any other violation of law instead of being charged with, convicted of, and sentenced for a violation of the proposed section.

The bill would define "bodily material" as blood, urine, saliva, semen, or feces.

"Holding cell", "holding center", "lockup", "jail", and "State correctional facility" would mean those terms as defined in the Corrections Code.

(Under the Code, those terms are defined as follows:

- "Holding cell" means a cell or room in a facility of a local unit of government that is used for the detention of one or more people awaiting processing, booking, court appearances, transportation to a jail or lockup, or discharge for not more than 12 hours.
- "Holding center" means a facility that is operated by a local unit of government for the detention of people awaiting processing, booking, court appearances, transportation to a jail or lockup, or discharge, for not more than 24 hours.
- "Lockup" means a facility that is operated by a local unit of government for the detention of people awaiting processing, booking, court appearances, or transportation to a jail, for not more than 72 hours.
- "Jail" means a facility that is operated by a local unit of government for the detention of people charged with, or convicted of, criminal offenses or ordinance violations, or people found guilty of civil or criminal contempt, for not more than one year.
- "State correctional facility" means a facility or institution maintained and operated by the Department of Corrections.)

"Intellectual disability", "mental health professional", and "mental illness" would be defined as those terms are defined in the Mental Health Code.

MCL 777.16t (H.B. 4118)  
Proposed MCL 750.411x (H.B. 4119)

Legislative Analyst: Suzanne Lowe

## **FISCAL IMPACT**

### **House Bill 4119 (H-2)**

The bill could have a negative fiscal impact on the State and local government. More felony arrests and convictions could increase demands on court systems, community supervision, jails, and correctional facilities. The average cost to State government for felony probation supervision is approximately \$3,024 per probationer per year. For any increase in prison intakes, in the short term, the marginal cost to State government is approximately \$3,764 per prisoner per year. Any associated increase in fine revenue increases funding to public libraries.

### **House Bill 4118 (H-1)**

The bill would 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 ruled that the sentencing guidelines are advisory for all cases. This means that the addition to the guidelines under the bill would not be compulsory for the sentencing judge. As penalties for felony convictions vary, the fiscal impact of any given felony conviction depends on judicial decisions.

Fiscal Analyst: Ryan Bergan

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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.