



Senate Fiscal Agency
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BILL ANALYSIS



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House Bill 5017 (Substitute H-2 as passed by the House)
House Bill 5018 (Substitute S-1)
Sponsor: Representative Peter J. Lucido
House Committee: Law and Justice
Senate Committee: Judiciary

Date Completed: 5-24-18

CONTENT

House Bill 5017 (H-2) would amend the Michigan Penal Code to prohibit and prescribe criminal penalties for cyberbullying.

House Bill 5018 (S-1) would amend the sentencing guidelines in the Code of Criminal Procedures to include the felonies proposed by House Bill 5017 (H-2).

House Bill 5018 (S-1) is tie-barred to House Bill 5017. Each bill would take effect 90 days after its enactment.

House Bill 5017 (H-2)

The bill would prohibit a person from cyberbullying another person. "Cyberbully" would include posting a message or statement in a public media forum about any other person if both of the following apply: a) the message or statement is intended to place a person in fear of bodily harm or death and expresses an intent to commit violence against the person; and b) the message or statement is posted with the intent to communicate a threat or with knowledge that it will be viewed as a threat. "Public media forum" would mean the internet or any other medium designed or intended to be used to convey information to other individuals, regardless of whether a membership or password is required to view the information.

A person who violated this prohibition would be guilty of a misdemeanor punishable by up to 93 days' imprisonment or a fine of up to \$500, or both. A person who violated the prohibition and had a prior conviction for cyberbullying would be guilty of a misdemeanor punishable by imprisonment for up to one year or a maximum fine of \$1,000, or both.

A person who violated the prohibition in a manner that involved a continued pattern of harassing or intimidating behavior and by the violation caused serious injury to the victim would be guilty of a felony punishable by up to five years' imprisonment or a maximum fine of \$5,000, or both. "Pattern of harassing or intimidating behavior" would mean a series of two or more separate noncontinuous acts of harassing or intimidating behavior. "Serious injury" would mean permanent, serious disfigurement, serious impairment of health, or serious impairment of a bodily function.

A person who cyberbullied another person in a manner that involved a continued pattern of harassing or intimidating behavior and by the violation caused the victim's death would be guilty of a felony punishable by up to 10 years' imprisonment or a \$10,000 fine, or both.

House Bill 5018 (S-1)

Under the bill, cyberbullying causing serious injury would be a Class E felony against a person, with a statutory maximum sentence of five years' imprisonment. Cyberbullying causing death would be a Class D felony against a person, with a statutory maximum of 10 years' imprisonment.

Proposed MCL 750.411x (H.B. 5017)
MCL 777.16t (H.B. 5018)

Legislative Analyst: Jeff Mann

FISCAL IMPACT

House Bill 5017 (H-2)

The bill would have a negative fiscal impact on State and local government. More misdemeanor and felony arrests and convictions could increase resource demands on law enforcement, 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 5018 (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.