

## FALSE REPORT OF SERIOUS LAW ENFORCEMENT EMERGENCY

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<http://www.house.mi.gov/hfa>

House Bills 4598 and 4599 as introduced  
Sponsor: Rep. John Reilly  
Committee: Judiciary  
Complete to 3-2-20

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

### SUMMARY:

House Bills 4598 and 4599 would do the following:

- Provide that making or causing to be made a false report of a serious law enforcement emergency, knowing the report is false, with the intent of summoning armed law enforcement to a specific residence, is a felony punishable by imprisonment for life or any term of years.
- Provide that a violation that proximately results in a person's being killed at that residence is a felony that must be punished by imprisonment for life without parole.
- Specify that these penalties do not affect a law enforcement officer's criminal or civil liability for causing the death of or maiming someone because of such a false report.
- Add penalties described in the first item above to the sentencing guidelines chapter of the Code of Criminal Procedure.

**House Bill 4599** would amend the Michigan Penal Code to provide that a person is guilty of a felony punishable by imprisonment for life or any term of years if he or she makes or causes to be made a false report of a *serious law enforcement emergency* and all of the following apply:

- The report alleges that the serious law enforcement emergency is taking place at a specific residence in Michigan.
- The report is made with the intent of summoning the response of armed law enforcement officers to the specific residence.
- The person knows the report is false.

*Serious law enforcement emergency* would mean a situation in which a law enforcement officer or agency would have reasonable expectation of encountering armed resistance, including an active shooter situation, barricaded gunman situation, or hostage situation.

If the false report resulted in a law enforcement response to a residence and a person was "killed at that residence"<sup>1</sup> as a proximate result arising out of that response, the person responsible for the report would be guilty of a felony and would have to be punished by imprisonment for life without eligibility for parole.

For any of the above penalties to apply, the false report would have to be made to a peace officer, state or local police agency, 9-1-1 operator, or any other governmental employee or contractor or employee of a contractor who is authorized to receive reports of a serious law enforcement emergency.

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<sup>1</sup> **Note:** This phrase seems to require that the person must die on site and not, say, at or on the way to a hospital.

Finally, the bill states that its provisions would not affect or limit any possible criminal or civil liability of a law enforcement officer who causes the death of or maims<sup>2</sup> an individual because of a violation of the bill.

A violation of the bill would occur if the communication of the false report originated in this state, was intended to terminate in this state, or was intended to terminate with a person in this state, and a violation or attempted violation could be prosecuted in any jurisdiction in which the communication originated or terminated. (These provisions would not be added by the bill, but currently apply to all violations of the section of law that the bill would amend.)

750.411a

**House Bill 4598** would amend the sentencing guidelines chapter of the Code of Criminal Procedure to add “False report of a serious law enforcement emergency with intent of summoning armed law enforcement to a residence” as a Class A felony against a person with a statutory maximum of life imprisonment. The bill is tie-barred to HB 4599, which means that it could not take effect unless HB 4599 were also enacted.

MCL 777.16t

Each bill would take effect 90 days after its enactment.

## **BACKGROUND:**

The Penal Code currently prohibits intentionally making or causing to be made a false report of the commission of a crime, knowing the report is false, to a peace officer, 9-1-1 operator, state or local police agency, or any governmental employee or contractor or employee of a contractor who is authorized to receive reports of a crime. A violation is a crime as follows:

- For a false report of a misdemeanor, a misdemeanor punishable by imprisonment for up to 93 days or a fine of up to \$500, or both.
- For a false report of a felony, a felony punishable by imprisonment for up to 4 years or a fine of up to \$2,000, or both.
- If the false report results in a response to address the reported crime and a person incurs physical injury as a proximate result of lawful conduct arising out of that response, the person responsible for the false report is guilty of a felony punishable by imprisonment for up to 5 years or a fine of up to \$20,000, or both.
- If the false report results in a response to address the reported crime and a person incurs serious impairment of a body function as a proximate result of lawful conduct arising out of that response, the person responsible for the false report is guilty of a felony punishable by imprisonment for up to 10 years or a fine of up to \$25,000, or both.
- If the false report results in a response to address the reported crime and a person is killed as a proximate result of lawful conduct arising out of that response, the person responsible for the false report is guilty of a felony punishable by imprisonment for up to 15 years or a fine of at least \$25,000 but not more than \$50,000, or both.

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<sup>2</sup> **Note:** “Maim” is not defined in the bill or in current law. The dictionary defines it as committing the felony of mayhem upon, or mutilating, disfiguring, or wounding seriously, and in a usage note indicates that it implies the loss or injury of a bodily member through violence. (*Merriam-Webster’s Collegiate Dictionary*, 11th ed.)

The Penal Code also prohibits intentionally making or causing to be made a false report of a medical or other emergency to a peace officer, firefighter, medical first responder, 9-1-1 operator, state or local police agency, state or local fire department, or any governmental employee or contractor or employee of a contractor who is authorized to receive reports of medical or other emergencies. (These provisions do not contain the phrase “knowing the report is false”.) A violation is a misdemeanor punishable by imprisonment for up to 93 days or a fine of up to \$500, or both, except as provided below:

- If the false report results in a response to address the emergency and a person incurs physical injury as a proximate result of lawful conduct arising out of that response, the person responsible for the false report is guilty of a felony punishable by imprisonment for up to 5 years or a fine of up to \$20,000, or both.
- If the false report results in a response to address the emergency and a person incurs serious impairment of a body function as a proximate result of lawful conduct arising out of that response, the person responsible for the false report is guilty of a felony punishable by imprisonment for up to 10 years or a fine of up to \$25,000, or both.
- If the false report results in a response to address the emergency and a person is killed as a proximate result of lawful conduct arising out of that response, the person responsible for the false report is guilty of a felony punishable by imprisonment for up to 15 years or a fine of up to \$50,000, or both.

The court may order a person convicted of making a false report of a medical or other emergency to pay to the state or local government the costs of responding to the false report, including use of police, fire, medical, or other emergency response vehicles and teams. If the person is a juvenile, his or her parent or parents may be ordered to pay any portion of those costs, subject to section 411a(6).

#### **FISCAL IMPACT:**

House Bill 4599 would have an indeterminate fiscal impact on the state and on local units of government. The number of felony convictions that would result under provisions of the bill is not known. New felony convictions would result in increased costs related to state prisons and state probation supervision. In fiscal year 2019, the average cost of prison incarceration in a state facility was roughly \$39,400 per prisoner, a figure that includes various fixed administrative and operational costs. State costs for parole and felony probation supervision averaged about \$3,800 per supervised offender in the same year. Those costs are financed with state general fund/general purpose revenue. The fiscal impact on local court systems would depend on how provisions of the bill affected caseloads and related administrative costs. Any increase in penal fine revenue would increase funding for public and county law libraries, which are the constitutionally designated recipients of those revenues.

House Bill 4598 is a companion bill to HB 4599 and amends sentencing guidelines to include false report of a serious law enforcement emergency with intent of summoning armed law enforcement to a residence. House Bill 4598 would not have a direct fiscal impact on the state or on local units of government.

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■ 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.