

Legislative Analysis



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House Bills 4854 and 4855 as introduced
Sponsor: Rep. Tommy Brand
Committee: Judiciary
Complete to 9-18-20

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

SUMMARY:

House Bill 4854 would amend the Michigan Penal Code to prohibit intentionally setting a contraption or device capable of causing injury to another (commonly referred to as a “booby trap”) and would establish a tiered penalty structure. House Bill 4855 would add the felony penalties to the sentencing guidelines.

House Bill 4854 would make it a felony offense to set a contraption or device that is intentionally made or set in a manner that renders it capable of causing injury or death to an individual and to leave it, or allow it to be left, in or about any place that other individuals may come into contact with it. Each violation would be punishable with a term of imprisonment or a fine, or both, as follows:

Violation involving device intentionally capable of causing injury or death	Maximum term of imprisonment	Maximum fine
Setting and placing	2 years	\$1,000
Causing injury to another	5 years	\$5,000
Causing <i>serious impairment of a body function</i>	10 years	\$7,500
Causing death	15 years	\$10,000

Serious impairment of a body function would include, without limitation, one or more of the following:

- Loss of a limb or use of a limb.
- Loss of a foot, hand, finger, or thumb or use of a foot, hand, finger, or thumb.
- Loss of an eye or ear or use of an eye or ear.
- Loss or substantial impairment of a bodily function.
- Serious visible disfigurement.
- A comatose state that lasts for more than three days.
- Measurable brain or mental impairment.
- A skull fracture or other serious bone fracture.
- Subdural hemorrhage or subdural hematoma.
- Loss of an organ.

Proposed MCL 750.411y

House Bill 4855 would place each new felony penalty into the sentencing guidelines portion of the Code of Criminal Procedure to specify that:

- Intentionally placing a contraption or device capable of causing injury or death would be a Class G felony against the public safety with a maximum term of imprisonment of 2 years.
- Intentionally placing a contraption or device capable of causing injury or death that causes injury would be a Class E felony against the public safety with a maximum term of imprisonment of 5 years.
- Intentionally placing a contraption or device capable of causing injury or death that causes serious impairment of a body function would be a Class D felony against the public safety with a maximum term of imprisonment of 10 years.
- Intentionally placing a contraption or device capable of causing injury or death that causes death would be a Class C felony against the public safety with a maximum term of imprisonment of 15 years.

House Bill 4855 is tie-barred to HB 4854, which means that it cannot take effect unless HB 4854 is also enacted into law.

MCL 777.16t

Each bill would take effect 90 days after being enacted.

FISCAL IMPACT:

House Bill 4854 would have an indeterminate fiscal impact on the state and on local units of government. Information is not available on the number of persons that might be convicted under provisions of the bill.

New felony convictions would result in increased costs related to state prisons and state probation/parole supervision. In fiscal year 2019, the average cost of prison incarceration in a state facility was roughly \$39,400 per prisoner per year, 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.

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 revenues would increase funding for local libraries, which are the constitutionally designated recipients of those revenues.

House Bill 4855 amends sentencing guidelines and would not have a direct fiscal impact on the state or on local units of government.

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