

Legislative Analysis



ASSAULT/BATTERY OF A PUBLIC UTILITY EMPLOYEE OR CONTRACTOR

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Senate Bill 1313 (Substitute S-1)
Sponsor: Sen. Irma Clark-Coleman

Senate Bill 1314 (Substitute S-1)
Sponsor: Sen. Mike Nofs
House Committee: Energy and Technology
Senate Committee: Judiciary

Complete to 6-28-10

A SUMMARY OF SENATE BILLS 1313 & 1314 AS PASSED BY THE SENATE 6-22-10

Senate Bill 1313 (Substitute S-1) would amend add Section 81e to the Michigan Penal Code to do the following things:

- Make it a misdemeanor for a person to assault, batter, or assault and batter, a public utility employee or contractor while the employee or contractor was performing his or her duties or because of the individual's status as a public utility employee or contractor. This offense would be punishable by imprisonment for not more than one year, a fine of not more than \$1,000, or both.
- If the person caused the employee or contractor *bodily injury requiring medical attention or medical care*, the offense would be considered a felony punishable by imprisonment for not more than two years, a fine of not more than \$1,000, or both.
- If the person caused the employee or contractor *serious impairment of a body function*, the offense would be considered a felony punishable by imprisonment for not more than five years, a fine of not less than \$1,000 or more than \$5,000, or both.
- Specify that a person could also be charged with, convicted of, or punished for any other violation of law arising out of the same transaction as the violation of this section.
- Define "public utility" as a "utility that provides steam, gas, heat, electricity, water, cable television, telecommunications services, or pipeline services, whether privately, municipally, or cooperatively owned."
- Define "serious impairment of a body function" as that term is defined in Section 58c of the Michigan Vehicle Code, MCL 257.58c. Under Section 58c, "serious impairment of a body function" includes, but is not limited to, one or more of the following: (1) loss of a limb or loss of use of a limb; (2) loss of a foot, hand, finger, or thumb or loss of use of a foot, hand, finger, or thumb; (3) loss of an eye or ear or loss of use of an eye or ear; (4) loss or substantial impairment of a bodily function; (5) serious visible disfigurement; (6) a comatose state that lasts for more than 3 days; (7) measurable brain or mental impairment; (8) a skull fracture or

other serious bone fracture; (9) subdural hemorrhage or subdural hematoma; (10) loss of an organ.

MCL 750.81e

Senate Bill 1314 (Substitute S-1) would amend the Code of Criminal Procedure to put the felony violations to be created by Senate Bill 1313 into sentencing guidelines. An assault on a utility worker causing bodily injury requiring medical attention under MCL 750.81e(2) would be considered a Class G felony against a person with a statutory maximum of two years. An assault on a utility worker causing serious impairment of a body function would be considered a Class E felony against a person with a statutory maximum of five years.

Senate Bill 1314 is tie-barred to Senate Bill 1313, meaning that it will not take effect unless Senate Bill 1313 is enacted into law.

MCL 777.16d

FISCAL IMPACT:

The bills would have an indeterminate fiscal impact on state and local government. There are no data to indicate how many offenders would be convicted of the various proposed offenses. An offender convicted of the misdemeanor offense under the bills would be subject to imprisonment for up to one year and a fine of up to \$1,000. An offender convicted of the Class E offense under the bills would receive a sentencing guidelines minimum sentence range of 0-3 months to 24-38 months, with a statutory maximum sentence of five years. An offender convicted of this offense also would be subject to a fine of up to \$5,000. An offender convicted of the Class G offense under the bills would receive a sentencing guidelines minimum sentence range of 0-3 months to 7-23 months, with a statutory maximum sentence of two years. An offender convicted of this offense also would be subject to a fine of up to \$1,000. Local governments would incur the costs of incarceration in local facilities, which vary by county. The state would incur the cost of felony probation at an annual average cost of \$2,000, as well as the cost of incarceration in a State facility at an average annual cost of \$34,000, a figure that includes various fixed administrative and operational costs. Additional penal fine revenue would benefit public libraries, which are the constitutionally-designated recipients of those revenues.

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