

Legislative Analysis



PUBLIC EMPLOYEES: PROHIBIT TAMPERING WITH DATA

Phone: (517) 373-8080
<http://www.house.mi.gov/hfa>

House Bill 5588 as introduced
Sponsor: Rep. Phil Phelps

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

House Bill 5589 as introduced
Sponsor: Rep. Klint Kesto

Committee: Judiciary
Complete to 5-9-16

SUMMARY:

Together, the bills would prohibit a public employee or officer from intentionally altering, tampering, or destroying data used in preparing official reports for the purpose of falsifying the data or misleading persons relying on the report, make a violation a felony, define terms, and place the maximum term of imprisonment in the corresponding sentencing guidelines.

House Bill 5588 adds a new section to the Michigan Penal Code (MCL 750.491a, proposed). The bill would prohibit a public employee or officer from directly, or indirectly by instructions to another person, intentionally alter, conceal, destroy, or otherwise tamper with data used in preparing an official report for the purpose of falsifying or misrepresenting the data or misleading a person relying on the report. A violation would be a felony punishable by imprisonment for not more than five years and/or a fine of not more than \$5,000.

A public employee or officer could assert an affirmative defense that he or she acted to comply with a directive or other requirement from a superior. The bill's provisions would not impair any right created under the Whistleblowers' Protection Act.

"Official report" would be defined to mean a report prepared in the course of the public employee's or officer's duties for submission or distribution to a governmental body for use in decisions regarding public policy. The term would not include a research report prepared primarily for the purpose of contributing to the scientific community's or the general public's knowledge.

"Public employee or officer" would mean an employee or officer of the state; of a city, village, township, or county of the state; or of a department, board, agency, institution, commission, authority, division, council, or other public entity of the state or of a city, village, township, or county in the state. The term would include an individual whose position results from election or appointment.

The bill takes effect 90 days after enactment.

House Bill 5589 amends the Code of Criminal Procedure (MCL 777.16x). The bill specifies that the intentional alteration of data with intent to mislead would be a Class E felony against the public trust with a maximum term of imprisonment of five years. The bill is tie-barred to House Bill 5588.

FISCAL IMPACT:

House Bill 5588 could increase costs on the state's correctional system depending on the number of persons convicted under the provisions of the bill. New felony convictions could result in increased costs related to state prisons and state probation supervision. The average cost of prison incarceration in a state facility is roughly \$35,200 per prisoner per year, a figure that includes various fixed administrative and operational costs. State costs for parole and felony probation supervision average about \$3,600 per supervised offender per year. Any increase in penal fine revenues would increase funding for local libraries, which are the constitutionally-designated recipients of those revenues.

House Bill 5589 amends sentencing guidelines and does not have a direct fiscal impact on the state or on local units of government.

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