

Legislative Analysis



PROHIBIT CYBERBULLING

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

House Bill 5017 (proposed H-2 substitute)

House Bill 5018 (proposed H-1 substitute)

Sponsor: Rep. Peter J. Lucido

Committee: Law and Justice

Complete to 2-26-18

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

BRIEF SUMMARY:

House Bill 5017 would make it a crime to cyberbully another person, define “cyberbullying,” and provide criminal penalties. House Bill 5018 would place the felony penalties within the sentencing guidelines. Each bill would take effect 90 days after its enactment.

DETAILED SUMMARY:

House Bill 5017 would add a new Section 411x to the Michigan Penal Code to prohibit a person from cyberbullying another person. The penalty for violating the bill’s prohibition could include a term of imprisonment, a fine, or both, as follows:

Offense of Cyberbullying	Offense level	Maximum term of imprisonment	Maximum fine
First offense	Misdemeanor	93 days	\$500
Second or subsequent offense	Misdemeanor	1 year	\$1,000
Cyberbullying involving a continued pattern of harassing or intimidating behavior that by the violation causes serious injury to the victim	Felony	5 years	\$5,000
Cyberbullying involving a continuing pattern of harassing or intimidating behavior causing death	Felony	10 years	\$10,000

“Cyberbullying” would be defined by the bill to include posting a message or statement in a public media forum about any other person if **both** of the following apply:

- 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.

- The message or statement is posted with the intent to communicate a threat or with knowledge that it will be viewed as a threat.

“Pattern of harassing or intimidating behavior” would mean a series of 2 or more separate noncontinuous acts of harassing or intimidating behavior.

“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.

Proposed MCL 750.411x

House Bill 5018 would place the maximum term of imprisonment for the felony violations of House Bill 5017 within the sentencing guidelines provisions of the Code of Criminal Procedure. Specifically, cyberbullying causing serious injury would be a Class E felony against a person with a maximum term of imprisonment of 5 years, and cyberbullying causing death would be a Class D felony against a person with a maximum term of imprisonment of 10 years.

House Bill 5018 is tie-barred to HB 5017, which means that HB 5018 cannot take effect unless HB 5017 is also enacted into law.

MCL 777.16t

FISCAL IMPACT:

House Bill 5017 would have an indeterminate fiscal impact on the state and on local units of government. The impact would depend on the number of new convictions resulting from provisions of the bill. New felony convictions would result in increased costs related to state prisons and state probation/parole supervision. In fiscal year 2017, the average cost of prison incarceration in a state facility was roughly \$37,000 per prisoner per year, a figure that includes various fixed administrative and operational costs. State costs for parole and felony probation supervision averaged about \$3,600 per supervised offender in the same year. New misdemeanor convictions would increase costs related to county jails and/or local misdemeanor probation supervision. The costs of local incarceration in a county jail and local misdemeanor probation supervision vary by jurisdiction. 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 5018 amends sentencing guidelines and does not have a direct fiscal impact on the state or on local units of government.

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