

Legislative Analysis



ADD CRYPTOCURRENCY TO PENAL CODE

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

House Bill 6253 as introduced
Sponsor: Rep. Clint Kesto

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

House Bill 6254 as introduced
Sponsor: Rep. Diana Farrington

House Bill 6255 as introduced
Sponsor: Rep. Steve Marino

House Bill 6257 as introduced
Sponsor: Rep. Curtis S. VanderWall

House Bill 6256 as introduced
Sponsor: Rep. Beau Matthew LaFave

House Bill 6258 as introduced
Sponsor: Rep. Vanessa Guerra

Committee: Law and Justice
Complete to 9-20-18

SUMMARY:

Collectively, the bills would amend various sections of the Michigan Penal Code to add direct and indirect references to cryptocurrency. The bills are further described below.

House Bill 6253 – Embezzlement (MCL 750.174)

Generally, a person commits embezzlement when that person fraudulently disposes of or converts another person's or entity's *money or other personal property* that is under his or her charge or control.

HB 6253 would specify that *money or personal property* includes **cryptocurrency**.

Cryptocurrency would mean digital currency in which encryption techniques are used to regulate the generation of units of currency and verify the transfer of funds, and that operates independently of a central bank.

House Bill 6254 – Money laundering (MCL 750.411j)

HB 6254 would add **cryptocurrency** to the definition of *monetary instrument* as that term is used in provisions concerning money laundering and financial transactions involving the proceeds of a criminal offense. The bill would use the same definition for **cryptocurrency** as in HB 6253, above.

House Bill 6255 – Crimes against animals (MCL 750.49)

Currently, a person is prohibited from knowingly collecting *money* for the fighting, baiting, or shooting of an animal, as those activities are described and prohibited in the Code.

HB 6255 would also prohibit a person from collecting **property or any other thing of value** for those activities.

House Bill 6256 – Criminal enterprises (MCL 750.159g)

Chapter XXVA of the Code (Criminal Enterprises) currently defines *racketeering* as committing or attempting to commit a variety of listed offenses *for financial gain*.

HB 6256 would amend the current definition to prohibit a person from committing or attempting to commit the listed offenses *for financial gain by obtaining money, property, or any other thing of value*.

House Bill 6257 – Forgery and counterfeiting of records (MCL 750.248)

Generally, a person is prohibited from falsely making, altering, forging, or counterfeiting various specified kinds of records or documents, such as wills or insurance policies, with intent to injure or defraud another person.

HB 6257 would add that this prohibition applies to a person that violates it by altering a record made utilizing *distributed ledger technology*.

Distributed ledger technology would mean any distributed ledger protocol and supporting infrastructure, including blockchain, that uses a distributed, decentralized, shared, and replicated ledger, whether use of the ledger is public or private, permissioned or permissionless, and that may include the use of electronic currencies or electronic tokens as a medium of electronic exchange.

House Bill 6258 – Credit cards (MCL 750.157m)

Chapter XXIVA of the Code (Credit Cards) currently defines *financial transaction device* as one of several specifically listed cards or an instrument or other means of access to a credit, deposit, or proprietary account.

HB 6258 would add to this definition the use of *cryptocurrency* or *distributed ledger technology* as other means of accessing an account. Both terms would have the same definitions as used in HBs 6253 and 6257, above.

Additionally, the bill would alphabetize definitions and update references to other laws.

The bills are not tie-barred to one another. Each bill would take effect 90 days after its enactment.

FISCAL IMPACT:

As introduced, House Bills 6253, 6254, and 6258 would have no fiscal impact on the state or on local units of government.

House Bills 6256 and 6257 would have an indeterminate fiscal impact on the state and on local units of government. Expanding the definitions of racketeering and forgery could lead to an increase in the number of individuals convicted of a felony. House Bill 6255 would also have an indeterminate fiscal impact on the state and on local units of government, which would depend on judicial sentencing decisions made for individuals who are

convicted. The bill authorizes imprisonment, a fine, and/or community service hours as punishment if convicted. Information is not available on the number of persons who might be convicted under provisions of the bill, and there is no way to know how individuals will be sentenced.

Any new felony convictions under House Bill 6256, 6257, or 6255 would result in increased costs related to state prisons and state probation supervision if the convictions result in imprisonment. In fiscal year 2017, the average cost of prison incarceration in a state facility was roughly \$37,000 per prisoner, 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. Those costs are financed with state general fund/general purpose revenue. Any fiscal impact on the judiciary and local court systems would depend on how provisions of the bill affect 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.

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