



Senate Fiscal Agency  
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## BILL ANALYSIS



Telephone: (517) 373-5383  
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House Bill 4219 (Substitute S-1 as reported)  
House Bill 4220 (Substitute S-1 as reported)  
House Bill 4308 (Substitute H-1 as reported without amendment)  
House Bill 4309 (as reported without amendment)  
Senate Bill 400 (as reported without amendment)  
Sponsor: Representative Tenisha Yancey (H.B. 4219)  
Representative Joseph N. Bellino, Jr. (H.B. 4220)  
Representative Abdullah Hammoud (H.B. 4308)  
Representative Graham Filler (H.B. 4309)  
Senator Ed McBroom (S.B. 400)

House Committee: Judiciary

Senate Committee: Judiciary and Public Safety

**CONTENT**

House Bill 4220 (S-1) would amend Section 1c of Public Act (PA) 213 of 1965, which provides for setting aside convictions in certain criminal cases, to allow the setting aside of a conviction for a first violation operating while intoxicated (OWI) under certain circumstances.

House Bill 4219 (S-1) would amend Section 1 of PA 213 to prescribe the definition of "first violation operating while intoxicated offense" and to modify the definition of "operating while intoxicated".

House Bill 4308 (H-1) would amend the Michigan Vehicle Code to delete the sunset of October 1, 2021, on which the bodily alcohol content (BAC) that constitutes OWI will increase from 0.08 to 0.10.

House Bill 4309 would amend the sentencing guidelines within the Code of Criminal Procedure to reflect the elimination of the sunset provision raising the BAC that constitutes OWI.

Senate Bill 400 would amend PA 213 to prescribe the time period in which an application to set aside a conviction for a first violation OWI offense would have to be filed.

House Bills 4219 (S-1) and 4220 (S-1) are tie-barred to each other. House Bill 4308 (H-1) and 4309 are tie-barred to each other. House Bill 4308 (H-1) also is tie-barred to House Bill 4220. Senate Bill 400 is tie-barred to House Bills 4219 and 4220.

MCL 780.621 (H.B. 4219)  
780.621c (H.B. 4220)  
257.625 et al. (H.B. 4308)  
777.33 & 777.84 (H.B. 4309)  
780.621d (S.B. 400)

Legislative Analyst: Stephen Jackson

**FISCAL IMPACT**

House Bills 4219 (S-1) and 4220 (S-1) likely would not have a noticeable fiscal impact on local court systems. While the bill likely would result in additional expungement filings across the State, it is assumed these filings would not flood the local court systems with additional

administrative costs and hearing requests. There are several fees associated with the expungement process (\$50 to the Michigan State Police (MSP) for a background check, \$10 to \$15 to MSP for fingerprints, \$10 to the Internet Criminal History Access Tool (ICHAT)), but no filing fees that go to a Judiciary restricted fund.

The bills likely would not have a fiscal impact on State government.

House Bill 4308 (H-1) would have no fiscal impact on State or local units of government; however, allowing the BAC sunset to take effect could reduce costs for the Michigan Department of Corrections (MDOC) and reduce revenue for local libraries. Currently, under the State's *per se* statute, a person with a BAC of 0.08 grams is considered to be operating while intoxicated; however, the statute requires the *per se* level to revert back to a BAC of 0.10 grams on October 1, 2021.

Enactment of the bill would have no fiscal impact on the State or local units as the current BAC thresholds would remain the same; thus, costs associated with them would remain unchanged. However, absent the bills, the likely result would be fewer convictions and a reduction in jail times and sentences. As a result, the MDOC could save an estimated \$42,400 per prisoner per year, the average annual cost for incarceration in an MDOC facility. Additionally, the average costs for parole and felony probation supervision services averaging \$4,300 annually per supervised offender, also could be saved. Finally, fewer convictions would result in fewer fines, which would lead to lower revenue for local libraries (which are the beneficiaries of civil fines).

The bill also would preserve existing Federal aid apportionments as it would lift the sunset on the 0.08 BAC standard. Under Federal law (23 USC 163), states that do not comply with at least a 0.08 BAC standard can lose Federal aid through the National Highway Performance Program and the Surface Transportation Program. The Department of Transportation estimates these loses could be up to \$53.0 million in Federal aid per year. Currently, Michigan receives roughly \$1.4 billion in Federal aid per year.

House Bill 4309 would have no fiscal impact on local government and an indeterminate fiscal impact on the State, in light of the Michigan Supreme Court's July 2015 opinion in *People v. Lockridge*, in which the Court ruled that the sentencing guidelines are advisory for all cases. This means that any changes to the guidelines under the bill would not be compulsory for the sentencing judge. As penalties for felony convictions vary, the fiscal impact of any given felony conviction depends on judicial decisions.

Senate Bill 400 would have an indeterminate, though likely negative, fiscal impact on local courts. Additional costs likely would come from an increase in the number of expungement filings for a first violation OWI offense. The number of increased filings is indeterminate and any additional costs would have to be absorbed by local court systems.

There are several fees associated with the expungement process (\$50 to the MSP for a background check, \$10 to \$15 to MSP for fingerprints, and \$10 to ICHAT), but none of these fees go to a Judiciary restricted fund. Expungement hearings typically do not take very long; however, a large increase in these hearings could increase costs for courts in the form of administrative costs and hearing times.

Date Completed: 5-4-21

Fiscal Analyst: Joe Carrasco  
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[floor/hb4219](#)

Bill Analysis @ [www.senate.michigan.gov/sfa](http://www.senate.michigan.gov/sfa)

This analysis was prepared by nonpartisan Senate staff for use by the Senate in its deliberations and does not constitute an official statement of legislative intent.