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House Bill 4129 (Substitute H-1 as passed by the House)
Sponsor: Representative Kara Hope
House Committee: Elections
Senate Committee: Elections and Ethics

Date Completed: 11-7-23

CONTENT

The bill would add section 931b to the Michigan Election Law to do the following:

- **Criminalize the actions of intimidating an election official and preventing an election official from performing the official's duties during an election.**
- **Prescribe misdemeanor and felony penalties for a violation of the bill.**
- **Specify that the bill would not apply to constitutionally protected activities.**

The bill would make the following actions a crime:

- Intimidating an election official because of the election official's status as an election official, with the specific intent of interfering with the performance of that election official's election-related duties.
- Preventing an election official from performing the election official's duties in conducting an election.

For a *first offense*, an individual would be guilty of a misdemeanor punishable by up to 93 days' imprisonment or a fine of up to \$500, or both. For a *second offense*, an individual would be guilty of a misdemeanor punishable by up to one year's imprisonment or a fine of up to \$1,000, or both. For a *third or subsequent offense*, the individual would be guilty of a felony.

The bill would not apply to constitutionally protected activity, including news gathering, protesting, lobbying, advocacy, or other activities intended to inform or influence the public or public officials, including election officials, on matters of public interest or public concern.

"Duties" would include any of the following:

- Creating, disseminating, collecting, or delivering applications or ballots, including absent voter ballots or absent voter ballot applications.
- Registering voters.
- Opening, closing, and maintaining order at polling places, early voting sites, and absent voter counting board locations.
- Processing and assisting voters at polling places or early voting sites.
- Processing and tabulating ballots at polling places, early voting sites, and absent voter counting board locations.
- Tallying ballots at polling places and absent voter counting board locations.
- Certifying election results by a board of county canvassers or the Board of State Canvassers.

"Election official" would mean a public officer, public employee, election inspector, member of the Board of State Canvassers, member of an absent voter counting board, or a county,

city, or township clerk who has a duty to perform in connection with an election conducted under the bill.

"Intimidate" would mean a willful course of conduct involving harassment of another individual that is intended to cause the individual to fear physical injury, that would cause a reasonable individual to fear physical injury, and that actually causes the individual to fear physical injury.

Proposed MCL 168.931b

PREVIOUS LEGISLATION

(This section does not provide a comprehensive account of previous legislative efforts on this subject matter.)

The bill is similar to House Bill 5282 from the 2021-2022 Legislative Session.

Legislative Analyst: Abby Schneider

FISCAL IMPACT

The bill's criminal penalties could have a negative fiscal impact on the State and local governments. Violations of the proposed Act would be punishable as misdemeanors and felonies of different severity. More misdemeanor and felony arrests and convictions could increase resource demands on law enforcement, court systems, community supervision, jails, and correctional facilities. Additionally, misdemeanor convictions could increase county jail and local probation supervision costs, which vary by jurisdiction and are thus indeterminate. Based on 2022 data, the average cost to State government for felony probation supervision is approximately \$4,800 per probationer per year. For any increase in prison intakes the average annual cost of housing a prisoner in a State correctional facility is an estimated \$45,700. Per diem rates for housing a prisoner in a State correctional facility range from a \$98 to \$192 per day, depending on the security level of the facility. In addition, any associated fine revenue would increase funding to public libraries.

The bill would have an indeterminate fiscal impact on local court systems. Any fiscal impact would depend on the bill's impact on caseloads, administrative costs, and criminal fine revenue, which also is constitutionally dedicated to county libraries.

Fiscal Analyst: Joe Carrasco, Jr.
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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.