

Legislative Analysis



PROHIBIT CYBERBULLING

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<http://www.house.mi.gov/hfa>

House Bill 5017 as introduced
House Bill 5018 as introduced
Sponsor: Rep. Peter J. Lucido

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

Committee: Law and Justice
Complete to 12-4-17

BRIEF SUMMARY:

House Bill 5017 would make it a crime to cyberbully another person. A 1-year misdemeanor penalty would apply if a violation caused a victim to be assaulted or suffer an assault and battery. A 20-year felony penalty would apply if the conduct caused the death of the victim (including death by suicide). Prohibited activities included as “cyberbullying” are listed in the bill.

House Bill 5018 would place the felony penalty within the sentencing guidelines.

The bills would take effect 90 days after enactment.

DETAILED SUMMARY:

House Bill 5017 would add a new Section 411x to the Michigan Penal Code to prohibit a person from cyberbullying another. A person who commits an act of cyberbullying that causes the victim to suffer an assault or an assault and battery—whether the person committed the assault or it was committed by another—would be guilty of a misdemeanor punishable by imprisonment for not more than 1 year or a fine of not more than \$1,000, or both.

A person who commits an act of cyberbullying that causes the death of the victim would be guilty of a felony punishable by imprisonment for not more than 20 years or a fine of not more than \$5,000, or both. The penalty would apply regardless of whether the cyberbully physically caused the victim’s death or if, as a result of the cyberbullying violation, another person caused the victim’s death or the victim committed suicide.

The following prohibited activities would be included as “cyberbullying”:

- Posting in a *public media forum* (definition below) a message or statement about any other person if **all** of the following apply:
 - The message or statement is false or intentionally misleading;
 - A reasonable person would find the message or statement to be damaging to another person’s character or reputation; **and**
 - The message or statement is posted with the intent to intimidate, frighten, or harass any other person or to cause emotional distress.

- Posting in a *public media forum* a message or statement about any other person if **both** of the following apply:
 - The poster intentionally conceals his or her identity to maintain anonymity or in order to mislead another into believing that the message was posted by another person; **and**
 - The message or statement is posted with the intent to intimidate, frighten, or harass any other person or to cause emotional distress.

- Posting in a *public media forum* a message or statement urging, recommending, or soliciting another person to injure or kill himself or herself, or urging another person to injure or kill the subject of the post, if **any** of the following apply:
 - The posting is made with the intent to cause the other person to injure or kill himself or herself or is posted under circumstances or in such a manner that a reasonable person would know that another person may injure or kill himself or herself due to the post;
 - The posting is made with the intent to *cause another person* to injure or kill the subject of the post or is posted under circumstances or in such a manner that a reasonable person would know that another person may injure or kill the subject of the post; **or**
 - The message or statement is posted with the intent to intimidate, frighten, or harass any person or to cause emotional distress.

Under the bill, “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.

House Bill 5017 would take effect 90 days after its enactment.

Proposed MCL 750.411x

House Bill 5018 would place the maximum term of imprisonment for a violation of House Bill 5017 within the sentencing guidelines provisions of the Code of Criminal Procedure. Specifically, cyberbullying causing death would be a Class B felony against a person with a maximum term of imprisonment of 20 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 2016, the average cost

of prison incarceration in a state facility was roughly \$36,000 per prisoner per year, a figure that includes various fixed administrative and operational costs. State costs for parole and felony probation supervision averaged about \$3,500 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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