

Legislative Analysis



INCREASE FINES FOR CERTAIN ASSAULTS OF HEALTH PROFESSIONALS OR MEDICAL VOLUNTEERS

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

House Bill 4520 as reported from committee
Sponsor: Rep. Mike Mueller

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

House Bill 4521 as reported from committee
Sponsor: Rep. Kelly Breen

Committee: Criminal Justice
Complete to 6-22-23

SUMMARY:

House Bill 4520 would amend the Michigan Penal Code to create enhanced criminal fines for simple assault and aggravated assault, and House Bill 4521 would create an enhanced criminal fine for assault with a deadly weapon, if the victim is a **health professional** or **medical volunteer** who is performing their duties at the time of the crime. The enhanced fines would be double the standard fines for the offenses, while terms of imprisonment would not change. However, the enhanced fines would not apply if the defendant were a patient who is receiving treatment from the victim. The bill also would require the operator of a health facility to post signs there describing the enhanced fines under the bills.

Health professional would mean an individual who is employed by a hospital, health system, or health care provider, whether operated by a governmental unit or a private entity, whose duties within the scope of that employment involve providing direct patient care and require licensure, certification, or other regulation under the Public Health Code, or who is providing indirect patient care under the direction of a hospital, health system, or health care provider.

Medical volunteer would mean an individual who is volunteering at a hospital, in a health system, or with a health care provider, whether operated by a governmental unit or a private entity, and whose duties as a volunteer involve the provision of direct patient care, or who is providing indirect patient care under the direction of a hospital, health system, or health care provider.

Simple assault

Currently, if the law prescribes no other penalty, a person who assaults or assaults and batters an individual is guilty of a misdemeanor punishable by imprisonment for up to 93 days or a fine of up to **\$500**, or both.

House Bill 4520 would add that if the victim of a violation described above is a health professional or medical volunteer and the violation occurs while the victim is performing their duties as a health professional or medical volunteer, the person is guilty of a misdemeanor punishable by imprisonment for up to 93 days or a fine of up to **\$1,000**, or both. However, the enhanced fine would not apply if the defendant were a patient receiving treatment from the victim. The operator of a health facility would have to post a sign there in a prominent and

visible location that describes the enhanced fine under this provision, as well as indicating that the enhanced fine does not apply to a patient seeking treatment, although such a person could still be subject to prosecution under the simple assault provisions of the code.

Aggravated assault

Currently, except in specified circumstances, a person who assaults an individual without a weapon and inflicts serious or aggravated injury on that individual without intending to commit murder or inflict great bodily harm less than murder is guilty of a misdemeanor punishable by imprisonment for up to one year or a fine of up to **\$1,000**, or both.

House Bill 4520 would add that if the victim of a violation described above is a health professional or medical volunteer and the violation occurs while the victim is performing their duties as a health professional or medical volunteer, the person is guilty of a misdemeanor punishable by imprisonment for up to one year or a fine of up to **\$2,000**, or both. However, the enhanced fine would not apply if the defendant were a patient receiving treatment from the victim. The operator of a health facility would have to post a sign there in a prominent and visible location that describes the enhanced fine under this provision, as well as indicating that the enhanced fine does not apply to a patient seeking treatment, although such a person could still be subject to prosecution under the aggravated assault provisions of the code.

Assault with a deadly weapon

Currently, except in specified circumstances, a person who assaults an individual with a gun, knife, iron bar, club, brass knuckles, or other dangerous weapon without intending to commit murder or inflict great bodily harm less than murder is guilty of a felony punishable by imprisonment for up to four years or a fine of up to **\$2,000**, or both.

House Bill 4521 would add that if the victim of a violation described above is a health professional or medical volunteer and the violation occurs while the victim is performing their duties as a health professional or medical volunteer, the person is guilty of a felony punishable by imprisonment for up to four years or a fine of up to **\$4,000**, or both. However, the enhanced fine would not apply if the defendant were a patient receiving treatment from the victim. The operator of a health facility would have to post a sign there in a prominent and visible location that describes the enhanced fine under this provision, as well as indicating that the enhanced fine does not apply to a patient seeking treatment, although such a person could still be subject to prosecution under the assault with a deadly weapon provisions of the code.

Each bill would take effect 90 days after its enactment. The bills are tie-barred to each other, meaning that neither bill could become law unless both are enacted.

MCL 750.81 and 750.81a (HB 4520)

MCL 750.82 (HB 4521)

BACKGROUND:

Taken together, the bills constitute a reintroduction of HB 5682 of the 2021-22 legislative session, which was passed by the House of Representatives. Other bills to create enhanced criminal penalties for assaulting emergency room staff include HBs 4327 and 4328, and SB 80, of the 2019-20 legislative session. Those bills were identical to HBs 6203 and 6204, and SB 33, of the 2017-18 legislative session. The 2017-18 bills were similar to SBs 250 and 360

of the 2013-14 legislative session. These last-mentioned bills, which were passed by the Senate, included only health professionals providing direct patient care and did not include medical volunteers or those providing indirect patient care.

BRIEF DISCUSSION:

By most estimates, roughly half of emergency room physicians and about 70% of emergency nurses have been physically assaulted on the job. Perpetrators of the violence are often family members or friends of a patient who feel their loved one is not receiving, or has not received, appropriate or timely care. Although hospital and emergency room direct care personnel are at highest risk for verbal and physical abuse, assaults against health care workers are not limited to those facilities. Injuries to doctors, nurses, medical techs, and others range from bruises to broken bones to death. As a result, many in these professions have left their careers, adding to the shortage of health care workers felt across the state and nation. However, violence in health care settings, though generally directed at health care workers, can result in collateral injury or death to other patients, family members, and visitors, as well as delay treatment to those in need of prompt medical care. For example, a shooting spree at an Atlanta medical facility in May of this year claimed the life of a medical worker and wounded four people in a waiting area. Many health care facilities are already investing in increased security technologies, security guards, and specialized training for workers in de-escalation strategies.

The bills would create an enhanced criminal fine for assaults, aggravated assaults, and assaults with a deadly weapon committed by nonpatients and would require signs to be placed in health care facilities, including doctors' offices, informing the public of the enhanced fines and reminding all that abuse of health care workers will not be tolerated.

At least 38 states currently provide some type of enhanced penalties for assaulting nurses, and several states apply enhanced penalties to assaults on specific health care workers or in specific settings such as emergency departments. Michigan provides enhanced penalties for assaults on law enforcement officers, fire fighters, and first responders. Many feel it is time to extend a similar protection to those in the medical fields when caring for patients.

FISCAL IMPACT:

House Bills 4520 and 4521 would have an indeterminate fiscal impact on the state and on local units of government. The number of convictions that would result under provisions of the bills is not known. New misdemeanor convictions under HB 4520 would result in increased costs related to county jails or local misdemeanor probation supervision, or both. Costs of local incarceration in county jails and local misdemeanor probation supervision, and how those costs are financed, vary by jurisdiction. New felony convictions under HB 4521 would result in increased costs related to state prisons and state probation supervision. In fiscal year 2022, the average cost of prison incarceration in a state facility was roughly \$47,900 per prisoner, a figure that includes various fixed administrative and operational costs. State costs for parole and felony probation supervision averaged about \$5,000 per supervised offender in the same year. Those costs are financed with state general fund/general purpose revenue. The fiscal impact of both bills on local court systems would depend on how provisions of the bills affected court caseloads and related administrative costs. It is difficult to project the actual fiscal impact to courts due to variables such as law enforcement practices, prosecutorial practices, judicial discretion, case types, and complexity of cases. Any increase in penal fine revenues would

increase funding for public and county law libraries, which are the constitutionally designated recipients of those revenues.

In addition, local and county government units may incur costs for complying with the bills' signage requirements, in the event that a local or county government unit is responsible for costs to operate an emergency department or emergency room in a hospital. However, costs incurred for complying with the signage requirements would likely be minimal.

POSITIONS:

Representatives of the following entities testified in support of the bills:

- Sparrow Hospital (6-13-23)
- Michigan College of Emergency Physicians (6-12-23)
- Emergency Nurses Association (6-23-23)
- Trinity Health Grand Rapids (6-23-23)
- Michigan Organization of Nursing Leadership (6-13-23)

The following entities indicated support for the bills:

- Michigan Osteopathic Association (6-20-23)
- Sparrow Health System (6-20-23)
- Corewell Health (6-23-23)
- Michigan Health and Hospital Association (6-13-23)
- Michigan Nurses Association (6-13-23)
- American Nurses Association-MI (6-13-23)
- Henry Ford Health (6-13-23)

The Department of State Police indicated a neutral position on the bills. (6-13-23)

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■ This analysis was prepared by nonpartisan House Fiscal Agency staff for use by House members in their deliberations and does not constitute an official statement of legislative intent.