



Senate Fiscal Agency
P.O. Box 30036
Lansing, Michigan 48909-7536



Telephone: (517) 373-5383
Fax: (517) 373-1986

House Bills 5400 and 5401 (Substitute H-1 as discharged)
Sponsor: Representative Noah Arbit (H.B. 5400)
Representative Kristian Grant (H.B. 5401)
House Committee: Judiciary
Senate Committee: Civil Rights, Judiciary, and Public Safety (discharged)

CONTENT

House Bill 5400 (H-1) would amend Chapter XXI (Civil Rights) of the Michigan Penal Code to do the following:

- Modify the prohibition against ethnic intimidation to instead prohibit a hate crime and prescribe the actions that constitute a hate crime, including the use of force or the true threat of force against an individual based on an identity or perceived characteristic of that individual.
- Prescribe felony penalties for a violation of the bill.
- Allow the court to impose an alternative sentence on a defendant for a first violation or, for a second or subsequent violation, reduce a penalty by up to 20% and impose an additional alternative sentence if the defendant consented.
- Specify that the bill would not prohibit an individual's exercise of the constitutional right to free speech.

House Bill 5401 (H-1) would amend the Code of Criminal Procedure to replace the current felony for ethnic intimidation with certain hate-crime related violations and add sentencing guidelines for other felony penalties proposed by House Bill 5400 (H-1).

MCL 750.147b (H.B. 5400)
777.16g (H.B. 5401)

Legislative Analyst: Eleni Lionas

FISCAL IMPACT

House Bill 5400 (H-1)'s criminal penalties could have a negative fiscal impact on the State and local government. More felony arrests and convictions could increase resource demands on law enforcement, court systems, community supervision, jails, and correctional facilities. Based on 2023 data, the average cost to State government for felony probation supervision is approximately \$5,100 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 \$98 to \$192 per day, depending on the security level of the facility. Additionally, any associated fine revenue would increase funding to public libraries.

House Bill 5401 (H-1) would have no fiscal impact on local government and an indeterminate fiscal impact on the State, considering 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 the addition 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.

Date Completed: 12-18-24

Fiscal Analyst: Joe Carrasco, Jr.
Michael Siracuse

floor\hb5400

Bill Analysis @ 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.