



HB 4585, 4590, 4591- House Law & Justice Committee
Position: Oppose
September 26, 2017

The ACLU of Michigan condemns violence against anyone, including first responders; however, we oppose HB 4585, 4590, and 4591 because they do little to address the real problems facing community-police relations and interactions and will further extend the racial disparities in our criminal justice system.

These bills will upend hate crimes law by adding first responders as a protected class, despite the fact that attacks on first responders already carry enhanced penalties and are prosecuted to the fullest extent of the law. Under this bill, Michigan police officers would be considered a protected class alongside vulnerable minority groups who face discrimination based on race, gender, religion, or sexual orientation. There is no evidence that this legislation is necessary or will make first responders safer.

The narrative that there is a dramatic exponential increasing trend in felonious officer assaults and deaths is highly misleading. Although 2016 did have an increase of felonious law enforcement fatalities (66)¹, this follows several years of steady decline in the number of officers killed as a result of criminal acts. In 2015, 41 officers were killed, which was a decrease from the 51 officers who were feloniously killed in 2014.² The five- and 10-year comparisons show a decrease of 31 felonious deaths compared with the 2011 figure (72 officers) and a decrease of seven deaths compared with 2006 data (48 officers). Overall, police fatalities for 2016 were still lower than the average for the previous 10 years.

Ultimately, there is no need for this legislation and there is no evidence that police have been injured more because of anti-police sentiment—an extremely gray area implicating potential first amendment concerns when it comes to establishing what actions and speech could be considered “targeting police” vs. what is constitutionally protected. Moreover, increasing penalties alone is not an effective method of deterring crime. There are already bills on the books that cover these issues, if they are not being properly enforced that’s something that should be addressed first rather than tacking on additional felonies.

Additionally, these bills purport that police officers and other emergency service personnel have been targets of bigotry in the way that those whom hate-crime laws seek to protect have. Beginning with the 1968 Civil Rights act, hate crime legislation should and has historically been used for victims and communities who have not been properly protected by the law. This equation is not only inaccurate, but diminishes the grave struggle that members of protected classes have faced and continue to face, including at the hand of police.

Finally, these bills are particularly problematic as they further perpetuate the racial disparities that plague our criminal justice system. Under this legislation a person would receive another 2 years on top

¹ FBI National Press Office, “FBI Releases 2016 Preliminary Statistics for Law Enforcement Officers Killed in the Line of Duty,” May 17, 2017, Retrieved from: <https://www.fbi.gov/news/pressrel/press-releases/fbi-releases-2016-preliminary-statistics-for-law-enforcement-officers-killed-in-the-line-of-duty>.

² FBI National Press Office, “FBI Releases 2015 Preliminary Statistics for Law Enforcement Officers Killed in the Line of Duty,” May 16, 2016, Retrieved from: <https://www.fbi.gov/news/pressrel/press-releases/fbi-releases-2015-preliminary-statistics-for-law-enforcement-officers-killed-in-the-line-of-duty>.

of an underlying crime, as well as charges or currently existing assault on an officer, etc. Unfortunately, the charges resulting from this legislation, similar to other enhanced crimes, will likely be used disproportionately to overcharge and over criminalize defendants of color who come from communities that are over-policed but under-resourced. Studies have consistently found that defendants of color face significantly more severe charges than whites, even after controlling for characteristics of the offense, criminal history, defense counsel type, age and education of the offender, and crime rates and economic characteristics of the jurisdiction.³

These bills run afoul to the criminal justice reform trend the legislature has been heading in and will only deteriorate community police relations. If we want to support both communities and first responders, we should focus on training officers on how to avoid unnecessarily dangerous encounters, deescalate potentially violent situations, recognize the stress police officers and their families confront, and provide mental health resources for those who need assistance. These bills do not address any of these worthy goals.

Respectfully submitted,

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³ Sonja B. Starr & M. Marit Rehani, Racial Disparity in Federal Criminal Charging and its Sentencing Consequences, U OF MICHIGAN LAW & ECON, EMPIRICAL LEGAL STUDIES CENTER PAPER NO. 12-002 (2012)).