

## CRIME ELEMENTS OF MAKING A TERRORIST THREAT

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

House Bill 5245 as introduced

Sponsor: Rep. John Reilly

Committee: Military, Veterans and Homeland Security

Complete to 10-19-21

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

### SUMMARY:

House Bill 5245 would amend the Michigan Penal Code to change the elements that constitute the crime of making a terrorist threat. The bill also would revise elements of the crime of making a false report of terrorism.

Currently under the act, a person is guilty of making a terrorist threat if the person threatens to commit an *act of terrorism* and communicates the threat to any other person. A person is guilty of making a false report of terrorism if the person knowingly makes a false report of an act of terrorism and communicates the false report to any other person, knowing the report is false.

*Act of terrorism* means a willful and deliberate act that meets all of the following:

- It would be a *violent felony* under Michigan law.
- The person knows or has reason to know it is *dangerous to human life*.
- It is intended to intimidate or coerce a civilian population or influence or affect the conduct of a unit of government through intimidation or coercion.

*Violent felony* means a felony in which an element is the use, attempted use, or threatened use of physical force against an individual or the use, attempted use, or threatened use of a *harmful biological substance*, a *harmful biological device*, a *harmful chemical substance*, a *harmful chemical device*, a *harmful radioactive substance*, a *harmful radioactive device*, an explosive device, or an incendiary device.

*Harmful biological substance* means a bacteria, virus, or other microorganism or a toxic substance derived from or produced by an organism that can be used to cause death, injury, or disease in humans, animals, or plants. *Harmful biological device* means a device designed or intended to release a harmful biological substance.

*Harmful chemical substance* means a solid, liquid, or gas that through its chemical or physical properties, alone or in combination with one or more other chemical substances, can be used to cause death, injury, or disease in humans, animals, or plants.

*Harmful chemical device* means a device that is designed or intended to release a harmful chemical substance.

*Harmful radioactive material* means material that is radioactive and that can be used to cause death, injury, or disease in humans, animals, or growing plants by its radioactivity. *Harmful radioactive device* means a device that is designed or intended to release a harmful radioactive material.

*Dangerous to human life* means something that causes a substantial likelihood of death or serious injury or is a violation of section 349 (kidnapping) or 350 (taking child under 14 from parent or guardian).

**The bill** would eliminate the above elements that now constitute making a terrorist threat and instead would provide that a person is guilty of making a terrorist threat if the person knowingly, intentionally, or recklessly makes a statement that would intimidate, frighten, or coerce a victim into undertaking an action or refrain from undertaking an action and if the statement meets all of the following:

- It is a threat of *physical force, violence, or destruction of substantial property*.
- It was made in a manner indicating that the threat would be carried out by the person making the statement or by other persons in concert with that person and not by an unrelated third party.
- Considering the context of the statement in its entirety, it would cause a reasonable person to conclude that it was meant to threaten the person who heard it, or another person in close physical proximity to that person, with *violence or damage to substantial property*.

In addition, the bill would provide that a person is guilty of making a false report of terrorism if the person makes a false report of an **act of terrorism** (defined as above) and communicates the false report to any other person, knowing the report is false. The false report would not have to be knowingly made.

The bill would take effect 90 days after its enactment.

MCL 750.543m

#### **FISCAL IMPACT:**

House Bill 5245 would have an indeterminate fiscal impact on the state and on local units of government. To the extent provisions of the bill result in an increase in felony convictions, the bill would result in increased costs related to state prisons and state probation supervision. In fiscal year 2020, the average cost of prison incarceration in a state facility was roughly \$42,200 per prisoner, a figure that includes various fixed administrative and operational costs. State costs for parole and felony probation supervision averaged about \$4,300 per supervised offender in the same year. Those costs are financed with state general fund/general purpose revenue. Any fiscal impact on the judiciary and local court systems would depend on how provisions of the bill affect 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 revenue would increase funding for public and county law libraries, which are the constitutionally designated recipients of those revenues.

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