

Legislative Analysis



COMMUNICATION IMPEDIMENT DESIGNATION

Phone: (517) 373-8080
<http://www.house.mi.gov/hfa>

Senate Bill 278 (H-1) as referred to second House committee
Sponsor: Sen. Tom Barrett

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

Senate Bill 279 (H-1) as referred to second House committee
Sponsor: Sen. Curtis Hertel, Jr.

1st House Committee: Transportation
2nd House Committee: Ways and Means
Senate Committee: Transportation and Infrastructure

House Bill 5541 as referred to third committee
Sponsor: Rep. Frank Liberati

1st Committee: Health Policy
2nd Committee: Transportation
3rd Committee: Ways and Means

Complete to 3-24-20

SUMMARY:

The bills would allow an individual who is applying for or renewing a vehicle registration, driver license, state personal ID card, or enhanced driver license or state personal ID card to elect to have a *communication impediment* designation associated with his or her records.

As used in the bills, *communication impediment* would mean that an individual has a health condition that could impede communication with a police officer, including the following:

- Deafness or hearing loss
- An autism spectrum disorder

The bills would require implementation of a process that would allow law enforcement agencies to access and view a designation associated with an individual's records and that would limit that access to law enforcement.

SB 278 would apply to driver licenses and vehicle registrations, HB 5541 would apply to state personal ID cards, and SB 279 would apply to enhanced driver licenses and enhanced state personal ID cards. The bills are described in greater detail below.

Senate Bill 278 would amend the Michigan Vehicle Code to allow an eligible owner of a motor vehicle who was applying for or renewing a vehicle registration to elect a communication impediment designation on a record that would allow Michigan law enforcement agencies to view the designation with the registration. The designation could be made on the application maintained in the computerized central file of registration applications by the Secretary of State

(SOS), which is interfaced with the Law Enforcement Information Network (LEIN),¹ or in another appropriate system that would limit access to law enforcement.

An eligible driver who was applying for or renewing an operator's or chauffeur's license under the act also could elect a communication impediment designation for the license. The SOS would have to develop a process, using LEIN or another appropriate system that limits access to law enforcement, that would allow Michigan law enforcement agencies to view the communication impediment designation associated with an individual's driver license.

[Note: Current law allows a driver to indicate on his or her license that he or she is deaf (but does not allow for an indication that he or she has hearing loss or an autism spectrum disorder). The bill would not amend this provision. Also, although SB 279 and HB 5541 prohibit indicating a communication impediment designation on the face of a license or card issued under their provisions, including an enhanced driver license, SB 278 neither prohibits nor prescribes such an indication on a driver license.]

Certification, penalty for fraud, and cancellation

An individual seeking a designation would have to provide to the SOS a certification, signed by a physician, physician's assistant, certified nurse practitioner, or physical therapist licensed to practice in Michigan, that identifies the individual for whom the designation is being elected and attests to the nature of the communication impediment.

A person who intentionally made a false statement of material fact or committed or attempted to commit a deception or fraud on the statement provided by the health professional would be guilty of a misdemeanor punishable by imprisonment for up to 30 days or a fine of up to \$500, or both.

The SOS could cancel or revoke a communication impediment designation upon determining that it was elected fraudulently or erroneously or that it was abused during a traffic stop. The SOS would have to provide the person with notice and an opportunity to be heard before canceling or revoking the designation.

MCL 257.221 and 257.310

House Bill 5541 would amend the State Personal Identification Card Act to allow an individual applying for a state personal ID card to elect to have a communication impediment designation maintained in the central personal ID card file or another appropriate system limited to law enforcement. The election would be subject to the same provisions as described under **Certification, penalty for fraud, and cancellation**, above. The bill would require the SOS, in conjunction with the Department of State Police (MSP), to incorporate a way to view a communication impediment designation using LEIN or another appropriate system that would

¹ The Michigan Law Enforcement Information Network (LEIN) is a statewide computerized information system, which was established July 1, 1967, as a service to Michigan's criminal justice agencies. The goal of LEIN is to assist the criminal justice community in the performance of its duties by providing and maintaining a computerized filing system of accurate and timely documented criminal justice information readily available to all criminal justice agencies. Access to LEIN is restricted to criminal justice agencies or those agencies statutorily granted authorization. https://www.michigan.gov/msp/0,4643,7-123-3493_72291---,00.html

limit access to law enforcement. The SOS could not display the communication impediment designation on the person's official state personal ID card.

[Note: Current law allows an individual to indicate on his or her ID card that he or she is deaf (but does not allow for an indication that he or she has hearing loss or an autism spectrum disorder). The bill would not amend this provision.]

MCL 28.291 and 28.292

Senate Bill 279 would amend the Enhanced Driver License and Enhanced Official State Personal Identification Card Act to allow an applicant for an enhanced driver license or enhanced state personal ID card to elect a communication impediment designation and implement the process to allow law enforcement agencies to view that designation. The election would be subject to the same provisions as described under **Certification, penalty for fraud, and cancellation**, above. An enhanced driver license or enhanced official state personal ID card issued under the act could not display a communication impediment designation on its face.

MCL 28.291 and 28.305

Tie-bars and effective dates: SB 279 is tie-barred to SB 278 and HB 5541, which means that it could not take effect unless those bills were also enacted.

SB 278 would take effect July 1, 2021.

[Note: SB 279 and HB 5541 do not specify an effective date, which means that, if enacted, they would take effect by April 1, 2021, at the latest.]

FISCAL IMPACT:

The bills 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 would increase costs related to county jails and/or local misdemeanor probation supervision. Costs of local incarceration in county jails and local misdemeanor probation supervision, and how those costs are financed, vary by jurisdiction. The fiscal impact on local court systems would depend on how provisions of the bills affected caseloads and related administrative costs. Increased costs could be offset, to some degree, depending on the amount of additional court-imposed fee revenue generated. Any increase in penal fine revenue would increase funding for local libraries, which are the constitutionally designated recipients of those revenues.

The bills would result in an undetermined increase in costs for the Department of State (DOS) and MSP related to information technology (IT) programming to the departments' computer systems.

DOS would incur costs for the department's driver license vendor, which DOS estimates to be approximately \$200,000, and for including the additional medical information in individuals' driving records. It is not yet determined what total costs for DOS would be, and it is not known how much of the required programming work could be incorporated into DOS's ongoing

modernization of its computerized driver records system. Work on the driver side of the new system, known as the Customer and Automotive Records System (CARS), is scheduled to be completed in February 2021. It is not yet known to what degree this ongoing IT work could absorb additional programming costs from the bills.

The bills would also result in IT programming costs to MSP related to updating its Criminal Justice Information System for law enforcement personnel to view whether an individual has been issued a communication impediment designation.

POSITIONS:

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

- Office of the Ingham County Sheriff (1-21-20)
- Xavier DeGroat Autism Foundation (3-10-20)

The following entities indicated support for the bills:

- Centria Autism (3-10-20)
- Lansing Police Department (5-15-19)
- Michigan State University Police (5-22-19)
- Office of the Oakland County Sheriff (1-21-20)

The Department of State indicated a neutral position on the bills. (3-10-20)

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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.