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House Bill 4132 (Substitute H-1 as passed by the House)
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Sponsor: Representative Pauline Wendzel (H.B. 4132)
Representative Ann Bollin (H.B. 4133)
House Committee: Judiciary
Senate Committee: Elections

Date Completed: 1-19-22

CONTENT

House Bill 4132 (H-1) would amend the Michigan Election Law to do the following:

- **Specify that a person who knowingly submitted an absentee ballot application that contained false information would be guilty of a felony instead of a misdemeanor.**
- **Require a statement to be included on an absentee ballot application indicating that a person who knowingly submitted an application that contained false information or a forged signature would be guilty of a felony.**
- **Specify that a person who knowingly filled out an absentee ballot application and submitted, without consent, an absentee ballot application that contained or used another person's name and personal identification information would be guilty of a felony.**
- **Specify that a person who knowingly filled out and submitted or caused to be submitted an absentee ballot application with the intent to obtain multiple absentee ballot for a person would be guilty of a felony.**

House Bill 4133 (H-1) would amend the sentencing guidelines in the Code of Criminal Procedure to include the felonies proposed by House Bill 4132 (H-1).

House Bill 4133 (H-1) is tie-barred to House Bill 4132.

House Bill 4132 (H-1)

The Michigan Election Law specifies that a person who makes a false statement on an absentee ballot application is guilty of a misdemeanor and requires a statement to that effect to be included on an absentee ballot application. In addition, a person who forges a signature on an absentee ballot application is guilty of a felony. Under the bill, instead, a person who knowingly submitted an absentee ballot application that contained false information or a forged signature would be guilty of a felony. An absentee ballot application would have to include a statement to that effect.

Under the bill, except as otherwise expressed authorized by law, a person who knowingly filled out an absentee ballot application and who, without consent, submitted or caused to be submitted, an absentee ballot application that contained or used another person's name and personal identification information would be guilty of a felony. (Under the Law, a signed absentee ballot may be in the possession of only the following individuals:

- The applicant.
- A member of the applicant's immediate family.
- An individual residing of the applicant's household.
- A mail carrier.
- A registered elector returning the application by request of the applicant, and who has signed the applicable certificate included with the application indicating this purpose.
- A clerk or other authorized election official.)

Also, a person who knowingly filled out and submitted or caused to be submitted an absentee ballot application with the intent to obtain multiple absentee ballot for a person would be guilty of a felony.

(Section 935 of the Michigan Election Law specifies that, unless another sentence is provided, a person found guilty of a felony under the Law must be punished by a fine of up to \$1,000 or up to five years' imprisonment, or both.)

House Bill 4133 (H-1)

The bill would amend the sentencing guidelines within the Code of Criminal Procedure to specify that the following offenses would be Class E felonies against public trust with a statutory maximum of five years' imprisonment:

- Knowingly filling out an absentee ballot application and without consent submitting or causing to be submitted an application containing another person's name and information.
- Knowingly filling out and submitting or causing to be submitted an absentee ballot application with the intent to obtain multiple absentee ballots for a person.
- Knowingly submitting an absentee ballot application containing false information or a forged signature.

The bill also would eliminate the sentencing designation for forged signature on an absentee ballot. (Forging a signature on an absentee ballot is currently a Class E felony against public trust with a statutory maximum of five years' imprisonment.)

MCL 168.759 (H.B. 4132)
777.11d (H.B. 4133)

Legislative Analyst: Dana Adams

FISCAL IMPACT

House Bill 4132 (H-1)

The bill would have a negative fiscal impact on State and local government. New felony arrests and convictions under the bill could increase resource demands on law enforcement, court systems, community supervision, jails, and correctional facilities. However, it is unknown how many people would be prosecuted under the bill's provisions. The average cost to State government for felony probation supervision is approximately \$3,400 per probationer per year. For any increase in prison intakes, in the short term, the marginal cost to State government is approximately \$5,400 per prisoner per year. Any additional revenue from imposed fines would go to local libraries.

House Bill 4133 (H-1)

The bill would have no fiscal impact on local government and an indeterminate fiscal impact on the State in light of 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.

Fiscal Analyst: Joe Carrasco

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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.