



**House
Legislative
Analysis
Section**

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POLICE DOMESTIC RELATIONS

House Bills 4189 & 4190 as introduced
First Analysis (3-4-87) Floor Copy

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Sponsor: Rep. Ethel Terrell
Committee: Civil Rights

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THE APPARENT PROBLEM:

In 1978, the legislature enacted several laws to address the problem of domestic violence and to give law enforcement officials more authority to deal with it. Some people claim that law enforcement officials are still unwilling to respond to calls involving domestic disputes. They say that the law should clearly state that denying a person full and equal benefit of law enforcement and other public services because of sex, age, or marital status violates the Elliott-Larsen Civil Rights Act.

THE CONTENT OF THE BILLS:

House Bill 4189 would amend the Elliott-Larsen Civil Rights Act to provide that an individual could not be denied full and equal benefit of public service, including law enforcement service in a controversy arising from a domestic dispute, because of sex, age, or marital status. The bill would define "domestic dispute" as "a physical confrontation resulting from a controversy between two members of the same family or persons who were members of the same family before the family was broken by divorce or separation, or between two persons who cohabit, or who have cohabited, or who are or were involved in a consenting sexual relationship" (MCL 37.2551).

House Bill 4190 (which is tie-barred to House Bill 4189) would amend the Michigan Law Enforcement Officers Training Council Act to require that officers be instructed on the provisions that would be added to the Elliott-Larsen Civil Rights Act by House Bill 4189 (MCL 28.601).

FISCAL IMPLICATIONS:

There are no fiscal implications to the state.

ARGUMENTS:

For:

Despite the domestic violence laws passed in 1978, law enforcement officers are still reluctant to intervene in domestic disputes, and domestic violence crimes are still given low priority by the law enforcement community. Domestic violence is a serious problem — it accounts for approximately one-third of all homicides reported. *The Detroit Free Press* has reported that some 20,000 cases of domestic violence are reported annually in Wayne, Oakland, and Macomb counties, and that the Detroit Police Department receives an average of 2,500 calls every month relating to domestic violence. It is discriminatory for law enforcement officials not to accord abused wives or husbands the same services or physical protection given unrelated victims of attacks. House Bill 4189 would clearly establish in law that failure of law enforcement officers to respond to a complaint solely because the alleged crime resulted from a domestic dispute is discriminatory and violates the Elliott-Larsen Civil Rights Act. Moreover, specifying in statute that it is discriminatory for law

enforcement officials to deny services to individuals involved in a domestic dispute would make those individuals more aware that they can file complaints with the Civil Rights Department.

Against:

House Bills 4189 and 4190 would add redundant provisions to the Elliott-Larsen Civil Rights Act and to the law enforcement officers training curriculum. Public Act 316 of 1978 already allows police to make arrests without a warrant in misdemeanor or domestic violence cases if they have "reasonable cause" to believe abuse has occurred and the law enforcement officers training council already requires training to deal with domestic dispute intervention. More extensive training would require additional funds, which the bills do not provide. If the bills aim at increasing the awareness of victims of domestic violence and of law enforcement officers, they should establish and provide funds for programs to educate both groups. Merely making more laws will hardly ensure that greater awareness will follow.

Against:

While House Bill 4189 would not specifically require that an arrest be made each time an officer intervened in a domestic dispute, police officers could feel pressured to make arrests when investigating domestic violence incidents in order to avoid the possibility of later having a suit filed against them with the Department of Civil Rights. Some of the results of the Domestic Violence Prevention Act implemented by the state of Washington in September of 1984 suggest that there might be unexpected, and undesirable, results from attempts to require or pressure police to make arrests in domestic assault cases. The Washington law requires that a police officer arrest someone if probable cause exists to believe a domestic assault has taken place, even if the victim does not want to press charges. The law also allows the police department to be sued for civil damages if failure to arrest leads to violence. This has had some unintended results. One result, sometimes attributed to "police backlash", is that there has been an increase in the numbers of women being arrested along with their male partners accused of abuse. In cases of domestic violence, often both participants sustain injuries. Seeing bruises on a husband inflicted by a wife in self defense, police in Washington sometimes arrest both partners and then allow them to plea bargain until charges are dropped. These arrests also often result in taking children from the home, or leaving them alone. Finally, officials suspect that some abused women, knowing that their partners will be arrested, refuse to call the police at all. As a result, whatever intervention the police might have offered to the couple is lost. Michigan does not need to experience these problems, which only compound the difficulties involved in domestic violence incidents.

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Response: Increasing arrests in domestic assault cases would have more positive than negative effects. Research funded by the U.S. Justice Department's National Institute of Justice shows that arrests deter repeat violence in domestic assault cases. A Minneapolis study of 314 cases of misdemeanor assault between family members where there was no severe injury showed that 35 percent of the victims reported a repeated assault within six months when the police did not make an arrest, while only 19 percent of the victims in those cases where police made an arrest reported repeated violence. Since only three of the 136 arrests in the study resulted in convictions, it appears that arrest deters violence even when the courts take no action. These bills, by increasing the likelihood of arrests, would serve to deter repeat domestic violence.

Against:

Increasing the possibility, if not likelihood, of lawsuits against police officers would tend to demoralize an already often overworked police force. Especially when staffing levels require that officers set priorities, officers may feel trapped between a rock and a hard place. What, for instance, should officers decide to do when faced with a choice between responding to a domestic assault call or an armed robbery in progress? Or suppose the decision is between a personal injury call, such as a serious automobile accident, and a domestic assault call?

Response: No one wants to make the work of police officers more difficult. But the answer to the kind of issues raised above is to increase staffing so that all citizens have adequate police protection, which is what these bills would help achieve.

Against:

The increase in arrests would mean even more crowded jails and courts. In 1984 alone, domestic violence shelters received over 31,000 crisis calls. However effective arrests might be in deterring repeated domestic violence, there are just not enough state and local resources to make this a practical option.

Response: Prison overcrowding is a serious problem in the state, and certainly needs to be addressed. However, these bills can help prevent violent assault and possibly even murder. Lives should not continue to be jeopardized when an effective and simple preventative measure — arrest in domestic assault cases — is immediately available.

POSITIONS:

The Department of Civil Rights supports the bills (3-3-87).

The American Civil Liberties Union supports the bills (3-3-87).

The Department of State Police opposes the bills (3-3-87).

The Michigan Sheriffs Association opposes House bill 4190 and is neutral on House Bill 4189 (3-4-87).