



**House
Legislative
Analysis
Section**

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COURTS' REPORTS TO SEC. OF STATE

House Bill 4547 as passed by the House
House Bill 4548 as passed by the House
Sponsor: Rep. William Van Regenmorter

House Bill 4549 as passed by the House
Sponsor: Rep. Perry Bullard

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Second Analysis (11-23-87)
Committee: Judiciary

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H.B. 4547 et al (11-23-87)

THE APPARENT PROBLEM:

A key feature of the state's effort to get drunk drivers off the roads is the requirement for courts to report alcohol-related offenses to the Department of State, so that the department, law enforcement agencies, and the courts can have up-to-date information on a person's driving record. Without adequate monitoring and recordkeeping on drunk driving convictions, a repeat offender can escape the higher penalties that accrue to subsequent convictions. Other vehicle-related convictions also are supposed to be reported to the Department of State, and these records, along with those for drunk driving, are important in ensuring that appropriate sanctions such as penalty points or license suspensions are imposed.

Following newspaper accounts that courts were sometimes failing to notify the Department of State of drunk driving convictions, the legislature in 1986 passed House Concurrent Resolution 793. That resolution requested the auditor general to review recordkeeping on traffic-related offenses, especially drunk driving convictions. Following a review of procedures in various courts and the Department of State, the auditor general found that many traffic-related convictions were not being reported to the Department of State as required by law (see Background Information). Among the problems cited were the reluctance of some clerks to forward records where the conviction was not clearly identified as vehicle-related, and a lack of consistency and timeliness with forwarding records on default judgments (issued when a driver fails to answer a citation for a civil infraction), warnings issued in juvenile court, and other actions.

In response to the auditor general's report, a task force composed of judges, State Court Administrative Office personnel, Department of State personnel, and others was convened to develop the amendments to statute and court rules necessary to implement the auditor general's recommendations. House Bills 4547 through 4549 represent the task force's proposals for statutory change.

THE CONTENT OF THE BILLS:

The bills constitute a package that would clarify and strengthen requirements for courts to report dispositions of various traffic-related offenses to the secretary of state. None of the bills could take effect unless all were enacted.

House Bill 4547

House Bill 4547 would amend the Michigan Vehicle Code to require clerks of courts, who are at present required to forward certain information to the secretary of state, to certify biannually that all abstracts required to be forwarded had been so. Reports would be required on

default judgments, as well as convictions, bail forfeitures, civil infraction determinations, and probate court dispositions (other than dispositions which were dismissals).

The offenses to which reporting requirements apply would be clarified, and include negligent homicide, unlawful driving away of a motor vehicle, joy riding, fleeing and eluding a police officer, felonious driving, and an attempt to commit any of these offenses. Abstracts also would be required on felonies in which a motor vehicle was used, which would be those during the commission of which a person operated a motor vehicle in a way that could cause harm and the vehicle was used in one of the following ways: as an instrument of the felony, to transport a victim of the felony, to flee the scene of the felony, or was necessary for the commission of the felony. Provisions for license suspension would be similarly clarified, and the bill would explicitly require the secretary of state to treat a conviction for an attempted offense as if the offense had been completed.

When a person was charged with committing a felony in which a motor vehicle was used (other than one of the specifically-named crimes such as negligent homicide), the prosecutor would have to note on the papers filed with the court that conviction would result in suspension of the person's driver's license, if the court found that the conviction was for a felony in which a motor vehicle was used. (The applicable papers would be the complaint and information filed in district or circuit court, and the petition filed in juvenile court.) If the judge or juvenile court referee determined as part of the sentence or disposition that the felony was one in which a motor vehicle was used, the clerk of the court would forward an abstract of the court record to the secretary of state.

Various notice and reporting periods would be changed to multiples of seven days. For example, the period allowed for a court clerk to prepare and forward an abstract to the secretary of state would be changed from ten to fourteen days.

MCL 257.319, et al.

House Bill 4548

House Bill 4548 would amend the Code of Criminal Procedure to require a prosecutor to include on a complaint and information for a felony in which a motor vehicle was used a statement saying that the accused would have his or her driver's license suspended for a period of 90 days to two years.

MCL 767.45

OVER

House Bill 4549

House Bill 4549 would amend the juvenile code to extend from ten to fourteen days the period during which juvenile court clerks must prepare and forward an abstract to the secretary of state. (This would be consistent with House Bill 4547.)

MCL 712A.2b

BACKGROUND INFORMATION:

The auditor general's review of 14 circuit, seven probate, and 28 district courts indicated that 98 percent of the traffic-related convictions in district court were being reported to the Department of State as required by law, but that about 80 percent of the circuit court convictions and 30 percent of the juvenile court adjudications were not. The report said that because district courts hear a majority of the traffic-related cases, most traffic-related convictions in the state were being reported. However, district courts were not consistently and promptly submitting abstracts for drivers failing to answer citations (default judgments), failing to comply with judgments, and failing to appear in court for violations of the vehicle code.

Within the circuit court sample examined by the auditor general, approximately 41 percent of drunk driving convictions and 88 percent of felony convictions involving a motor vehicle were not reported to the Department of State. A lack of clear procedure, especially with regard to felony cases which involved a motor vehicle, was identified along with a failure to follow procedure. Some county clerks (clerks of the court for circuit courts are the county clerks) evidently were reluctant to decide whether a motor vehicle was involved and suggested that this be noted by the prosecutor in the complaint and warrant and by the judge at sentencing. The report said that there was no mechanism in the system to easily identify these cases for reporting purposes.

FISCAL IMPLICATIONS:

The House Fiscal Agency reports that the bills would present state costs in an unknown amount. (11-23-87)

ARGUMENTS:

For:

An essential element in dealing with unsafe drivers is the conviction information that court clerks are to provide the Department of State. Unfortunately, a lack of clear procedure and notification for clerks apparently has led to a low level of compliance from the county clerks who are to report information from circuit courts, and to inconsistency and tardiness with regard to reports sent from other courts. The bills would clarify procedures in accordance with recommendations from the auditor general and a task force appointed by the state court administrator, and thereby improve recordkeeping on drunk drivers and others who use motor vehicles irresponsibly.

POSITIONS:

The Department of State supports the bills. (11-17-87)

The State Court Administrative Office supports the bills. (11-16-87)

The Michigan Association of County Clerks has no formal position on the bills at this time, but supports requirements for prosecutorial notice on the complaint and information filed with the court. (11-23-87)