

SFA

BILL ANALYSIS

Senate Fiscal Agency

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House Bill 4548 (as reported without amendment)

House Bill 4549 (as reported with amendment)

Sponsor: Representative William Van Regenmorter (House Bill 4548)

Representative Perry Bullard (House Bill 4549)

House Committee: Judiciary

Senate Committee: Judiciary

Date Completed: 4-19-88

RATIONALE

Vehicle-related convictions are supposed to be reported to the Department of State, and these records help to ensure that appropriate sanctions such as penalty points or license suspensions are imposed. In 1986, following newspaper accounts that courts were sometimes failing to notify the Department of State of drunk driving convictions, the Legislature 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**). Among the problems cited were the reluctance of some clerks to forward records of convictions that were 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.

CONTENT

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

House Bill 4549 would amend the juvenile code to extend from 10 to 14 days the period during which juvenile court clerks must prepare and forward an abstract to the Secretary of State.

The bills are tie-barred to one another and to House Bill 4547, which would amend the Michigan Vehicle Code to revise courts' requirements to report dispositions of various traffic-related offenses to the Secretary of State. (House Bill 4547 passed the Senate on March 23, 1988, but the Senate requested its return on April 13, 1988, and the bill

was referred back to the Committee on State Affairs, Tourism, and Transportation.)

MCL 767.45 (House Bill 4548)

712A.2b (House Bill 4549)

SENATE COMMITTEE ACTION

The Senate Judiciary Committee adopted an amendment to House Bill 4549 that specifies that the abstract to be forwarded by the juvenile court clerk would have to be prepared and forwarded within 14 days after entry of a probate court "order of adjudication". The House-passed version of the bill would have required the forwarding within 14 days after entry of a probate court "order of disposition, except a disposition resulting in dismissal".

BACKGROUND

The Auditor General's review of 14 circuit, seven probate, and 28 district courts indicated that 98% of the traffic-related convictions in district court were being reported to the Department of State as required by law, but that about 80% of the circuit court convictions and 30% 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. District courts, however, were not consistently and promptly submitting abstracts for drivers who failed to answer citations (default judgments), failed to comply with judgments, or failed to appear in court for violations of the vehicle code.

Within the circuit court sample examined by the Auditor General, approximately 41% of drunk driving convictions and 88% 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 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 identify these cases easily for reporting purposes.

FISCAL IMPACT

House Bill 4548 would have an indeterminate impact on

State and local government. The number of additional driver's license suspensions that could result from improved reporting requirements cannot be estimated.

House Bill 4549 would have no fiscal impact on State or local government.

ARGUMENTS

Supporting Argument

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 and confusion over what constitutes a vehicle-related conviction apparently have 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, together with House Bill 4547, represent a major portion of the recommendations of the Auditor General and the task force appointed by the State Court Administrator. In accordance with those recommendations, the bills would clarify reporting procedures and notice requirements, and thereby improve record-keeping on drunk drivers and others who use motor vehicles irresponsibly.

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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.