

**INCREASE PENALTIES FOR
ASSAULTING PEACE OFFICERS**

**House Bill 4736 with committee
amendment
First Analysis (10-14-97)**

**Sponsor: Rep. Beverly Bodem
Committee: Conservation, Environment
and Recreation**

THE APPARENT PROBLEM:

Various penalties are imposed under Michigan law for assaulting police or conservation officers. The Michigan Penal Code specifies that it is a misdemeanor to obstruct, resist, oppose, assault, beat or wound any sheriff, coroner, township treasurer, constable or other officer or person authorized to maintain and preserve the peace. The misdemeanor is punishable by a fine of up to \$1,000 or imprisonment for up to two years. Also, the Natural Resources and Environmental Protection Act (NREPA) specifies that assault or battery of a Department of Natural Resources' (DNR) employee, or any other "peace officer" who is performing departmental duties, is a misdemeanor, and the punishment is the same as that prescribed for resisting or obstructing a police officer: up to two years in prison or a fine of up to \$1,000.

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In response to concerns that penalties for "fleeing and eluding" a police or conservation officer (failing to obey officers' directions to stop a vehicle) were too lenient, Public Act 586 of 1996 recently imposed stricter penalties. The offense is now generally considered a felony. Some people believe that the penalties imposed for assault on police and conservation officers are also excessively lenient. Accordingly, legislation has been introduced, under House Bill 4735, that would amend the penal code to make the offense a felony, rather than a misdemeanor. Under the bill, a two-year prison sentence could be imposed, in addition to a \$1,000 fine, and even stricter penalties would be imposed for assaults that inflicted physical injury on officers. Corresponding legislation has been introduced that would extend these provisions to DNR employees.

THE CONTENT OF THE BILL:

Part 16 of the Natural Resources and Environmental Protection Act (MCL324.1608) specifies that assault or battery on a Department of Natural Resources' (DNR) employee, or any other "peace officer" who is performing departmental duties, is a misdemeanor, and

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obstructing a police officer: up to two years in prison or a fine of up to \$1,000. House Bill 4736 would amend the act to specify that, instead, such an offense would be a crime, punishable as provided in the Michigan Penal Code, as proposed in House Bill 4735.

Penalties. House Bill 4736 is tie-barred to House Bill 4735 (MCL 750.81c, 750.479, and 750.479a), which would add a new section to Chapter XI ("Assaults") of the penal code to establish penalties specifically for assaulting or battering a "peace officer," with a higher penalty imposed if the assault or battering resulted in physical injury to the peace officer. More specifically, the bill would make it a felony rather than a misdemeanor, punishable by imprisonment for up to two years and/or a fine of \$1,000, to assault or batter a peace officer. If an individual assaulted or battered a peace officer and that assault or battery inflicted physical injury on the peace officer, the violation would be a felony punishable by imprisonment for four years and/or a fine of up to \$2,000. House Bill 4735 also would rewrite the existing section in Chapter LXX of the penal code to increase the penalty for resisting, assaulting, or wounding an officer while in the performance of duty. The bill would increase the penalty for such behavior by allowing both, instead of either, imprisonment for up to two years and a fine of up to \$1,000.

Definition of Peace Officer. House Bills 4736 and 4735 would clarify that the provisions specified in the bills would apply to a broad range of law enforcement officers. As used in the bills, the term "peace officer" would mean any of the following:

- Any state or local police officer, including Department of State Police motor carrier officers, and police officers from other states.
- A police officer of any U.S. entity (i.e., federal police officers).

- Any sheriff or deputy sheriff, including those from other states.
- A college or university public safety officer who is authorized to enforce state laws or the laws of another state, as well as those of the college or university.
- A state or federal conservation officer.

FISCAL IMPLICATIONS:

According to the House Fiscal Agency, the bill has no fiscal implications. (10-13-97)

ARGUMENTS:

For:

Currently, approximately 220 conservation officers are employed by the Department of Natural Resources (DNR). According to the department, the number of assault on these officers varies each year. Between 1992 and 1995, assaults averaged between five and six each year; in 1996 there was one assault; and in 1997, to date, there have been two assaults. The assaults usually occur as the officers are making arrests or issuing tickets. Most involve kicking or punching the officer. However, some officers have been attacked by automobiles or snowmobiles. Other assaults have involved the use of boat propellers as weapons when officers attempted to stop the boats. Stricter penalties for such offenses are needed to deter potential offenders and to impress upon the public the seriousness of such crimes.

Against:

Although the majority of conservation officers employed by the state are employees of the DNR, there are also some 14 or 15 conservation officers employed by the Department of Environmental Quality (DEQ). Therefore, the bill should also provide penalties for assault on DEQ conservation officers.

POSITIONS:

The Department of Natural Resources (DNR) supports the bill. (10-9-97)

The Michigan Association of Chiefs of Police supports the bill. (10-10-97)

The Michigan Fraternal Order of Police supports the bill. (10-13-97)

The Michigan Trial Lawyers Association has no position on the bill. (10-10-97)

The Michigan Municipal League has no position on the bill. (10-10-97)

The Michigan Judges Association has no position on the bill. (10-13-97)

Analyst: R. Young

■ This analysis was prepared by nonpartisan House staff for use by House members in their deliberations, and does not constitute an official statement of legislative intent.