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ENHANCED SENTENCES FOR SCHOOL CRIMES

House Bill 5703 (Substitute H-3)
Sponsor: Rep. Mark Schauer
Committee: Judiciary

Senate Bill 755 (Substitute H-3)
Sponsor: Sen. Loren Bennett
Senate Committee: Education
House Committee: Judiciary

First Analysis (4-28-98)

THE APPARENT PROBLEM:

Recent events have once again focused the nation's attention on violence in U.S. public schools. It is an issue that has consistently generated a great deal of public concern. Media reports highlighting specific school-based violent acts worry parents, students, and teachers alike. Studies have reported that students and teachers are increasingly concerned about their safety while on school property. According to a 1997 U.S. Center for Disease Control Youth Risk Behavior Survey, one in 25 Michigan students in grades 9 - 12 claimed to have avoided school for one or more days during a thirty-day period because they felt unsafe. In addition, one out of every 13 students carried a weapon on school property one or more times in the same 30-day period and one out of every 11 students claimed to have been threatened or injured with a weapon on school property over a one-year period. Furthermore, a White House survey found that, for the 1996-97 school year, approximately 11,000 physical attacks or fights in which a weapon was used, 7,000 robberies, and 4,000 rapes or other kinds of sexual assault were reported to have occurred in public schools nationwide. In light of these statistics, it is suggested that efforts must be made to ensure a more safe and secure school environment for teachers and pupils alike. A subcommittee of the House Education Committee held public hearings throughout the state to investigate and discuss the issue of violence in schools and recommended a bipartisan package of legislation to deal with this issue. One of the particular means of dealing with school violence suggested by the subcommittee is to allow for enhanced punishments for certain crimes if the crime is committed on school property.

THE CONTENT OF THE BILLS:

The bills would add new sections to the Code of Criminal Procedure that would allow an enhanced sentence for an individual convicted of a felony, "life felony," or "serious misdemeanor" that occurred on school property against a teacher, administrator, employee, volunteer or student of that school. A school would include a public or private school offering developmental kindergarten, kindergarten, or any grade from first through twelfth. "School property" would include any building or real property used by a school for school purposes or for functions or events sponsored by the school.

A person who engaged in conduct that was a life felony (a felony, other than first degree murder, that is punishable by imprisonment for life or for life or any term of years) on school property and against a teacher, student, etc. would be guilty of a felony and could be punished by imprisonment for life or any term of years. If the conduct was any other felony and committed under the same circumstances, the person would be guilty of a felony and could be subject to up to twice the term of imprisonment or twice the fine authorized for the underlying offense, or both.

A person who committed a serious misdemeanor under the circumstances outlined above could be punished by double the maximum allowable imprisonment or fine, or both, for the underlying misdemeanor. A serious misdemeanor would include any of the following offenses: assault and battery; aggravated assault; fourth degree child abuse; accosting, enticing, or soliciting a minor; discharge of a firearm intentionally aimed at a person (either resulting in injury or missing); indecent exposure; and stalking.

Neither bill would take effect unless both were enacted. The effective date for both bills would be August 1, 1998.

MCL 769.15j - 769.15m

FISCAL IMPLICATIONS:

Fiscal information is not available.

ARGUMENTS:

For:

Without a secure environment within the schools, children cannot be expected to learn. Children, and for that matter teachers and other school employees, should not feel unsafe in school. Schools should be free from fear, so that teachers can teach and children can learn. The bills will help to make schools a safer place by helping to deter violent behavior on school property. When the problems with schools are discussed one of the most often raised concerns is classroom discipline and safety. Recent events like shootings in Kentucky and Arkansas serve to focus attention on the problem and to raise concerns about what is being done and what can be done to prevent such events from occurring in this state. Although Michigan has taken actions to protect students and teachers -- for example, Public Act 328 of 1994, which mandates the expulsion of students who possess weapons on school grounds or commit certain other offenses -- the threat is by no means eliminated and further efforts are necessary to ensure the safety of both students and teachers.

A 1994 University of Michigan study reportedly found that one out of every seven public school teachers across the country had been threatened or physically attacked. Further, the National Center for Education Statistics, within the U.S. Department of Education, reports that from 1987-88 to 1990-91, the percentage of teachers reporting moderate to serious problems with physical conflicts between students increased from approximately 26 percent to nearly 30 percent. The percentage then rose to nearly 40 percent by 1993-94. Clearly, efforts need to be made to eliminate the threat of violence from schools. Increasing penalties will help to do that. In particular, the change will protect teachers by providing for a significantly enhanced penalty for those who engage in assaultive actions against them.

Against:

These bills are unnecessary. All of the behaviors in the bills are already illegal and penalties already exist for these crimes. If these penalties are insufficient for crimes when committed in a school setting, then it seems likely that the penalties are also insufficient for these crimes when committed elsewhere. If enhancing the penalties for these crimes will work as a deterrent in a school setting, why not enhance them for crimes committed in other settings? Don't others deserve the same degree of protection from violence as teachers and students?

Response:

The reason for increasing penalties for crimes committed on school property is to make schools safer. The threat of violence has a more negative impact in schools because it interferes with the school's goal -- teaching children.

Against:

These bills will not make schools any safer; increasing penalties for crimes has been a notoriously ineffective deterrent. Furthermore, even if one agrees with the supposition that the threat of increased penalties will act as a deterrent, it is the minimum penalty that should be increased, not the maximum. Nothing in either bill is likely to change the time served by any defendant because neither bill affects the minimum term to which a judge can sentence a defendant.

Furthermore, the threat of school violence is over-emphasized. According to the Department of Education report, fully 43 percent of the schools surveyed reported no incidents of violence during the 1996-97 school year. In addition, studies that rely on surveys administered to students are often fraught with exaggerations and thus tend to be inaccurate and, thus, unreliable. One study in particular, which took pains to eliminate some of these exaggerations from its conclusions, discovered that the results for the percentage of students who reported carrying a gun to school dropped from 16.6 to 5.6 percent. The percentage of reports of fighting dropped from 29.3 to 19.2 percent.

Response:

Even if the results from some studies may be unreliable, the lowered percentages of the study referred to are alarming. Further, the studies that are based on the reports of school administrators are not subject to the same threat of inaccuracy and offer more than enough reason to believe that a problem exists that warrants examination and correction.

Against:

Many argue that the problem of violence in the schools is merely a symptom of something endemic within our culture. Studies suggest that the consistent exposure of children to violence on television leads to or even encourages violent and disruptive behavior. Furthermore, society's lack of discipline and personal responsibility also fosters attitudes that lead to the sort of behavior that these bills seek to discourage. Without facing these greater societal influences, the attempt to lower the incidence of violence in schools through increasing the length of criminal penalties will be ineffectual, at best.

POSITIONS:

The Michigan Federation of Teachers and School Related Personnel supports the bills. (4-23-98)

The Department of State Police is neutral on the bills. (4-24-98)

The Michigan Association of School Administrators has no position on the bills. (4-24-98)

Analyst: W. Flory

■ 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.