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SFA**BILL ANALYSIS**

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Senate Bill 342 (as introduced 3-27-97)
Sponsor: Senator Art Miller, Jr.
Committee: Judiciary

Date Completed: 4-22-97

CONTENT

The bill would amend the Michigan Penal Code to provide for increased penalties for stalking and aggravated stalking if the victim were less than 18 years of age at any time during the offender's course of conduct.

Stalking is a misdemeanor punishable by up to one year's imprisonment, a maximum fine of \$1,000, or both. Under the bill, that would be the penalty only if the victim were 18 years of age or older during the defendant's entire course of conduct. If the victim were less than 18 at any time during the defendant's course of conduct, the offense would be a felony punishable by up to five years' imprisonment, a maximum fine of \$10,000, or both.

Aggravated stalking is a felony punishable by up to five years' imprisonment, a maximum fine of \$10,000, or both. Under the bill, that would be the penalty only if the victim were 18 years of age or older during the defendant's entire course of conduct. If the victim were less than 18 at any time during the defendant's course of conduct, the offense would be punishable by up to 20 years' imprisonment, a maximum fine of \$20,000, or both.

"Stalking" means "a willful course of conduct involving repeated or continuing harassment of another individual that would cause a reasonable person to feel terrorized, frightened, intimidated, threatened, harassed, or molested, and that actually causes the victim to feel terrorized, frightened, intimidated, threatened, harassed, or molested". "Course of conduct" means "a pattern of conduct composed of a series of 2 or more separate noncontinuous acts, evidencing a continuity of purpose". "Harassment" means "conduct directed toward a victim that includes, but is not limited to, repeated or continuing unconsented contact, that would cause a reasonable individual to suffer emotional distress, and that actually causes the victim to suffer emotional distress. Harassment does not include constitutionally protected activity or conduct that serves a legitimate purpose."

A person who engages in stalking is guilty of aggravated stalking if the violation involves any of the following circumstances:

- The stalking actions are in violation of a restraining order and the individual has received actual notice of that order or the actions are in violation of an injunction or preliminary injunction.
- The stalking actions violate a condition of probation, pretrial release, or release on bond pending appeal.
- The course of conduct involves making one or more credible threats against the victim, a member of the victim's family, or another person living "in the victim's household". (The bill would change that language to another person living "in the same household as the victim".)
- The defendant previously has been convicted of stalking or aggravated stalking.

FISCAL IMPACT

The bill would have an indeterminate fiscal impact on State and local government. According to circuit court disposition data, in 1995, there were 161 convictions for aggravated stalking, 35 receiving a prison sentence, with an average minimum sentence of about two years. There were also four convictions for stalking in circuit court, each receiving a sentence of either probation or jail. There are no data currently available, however, that provide the age of the victim in those convictions.

If one assumed that 10 of the 161 convictions for aggravated stalking in 1995 involved victims under the age of 18, and that this number would continue in the future, and that judges would impose the new maximum penalties allowed under the bill at or near 40% of the allowable maximum (40% of 20, or 8 years), then annual costs of incarceration associated with the increased penalties could approach \$900,000 (10 annual commitments x 6 additional years of incarceration x \$15,000 per year).

Given that the current stalking offense is a misdemeanor, most of the convictions are processed through district court. It is difficult to predict what effect raising the offense to a felony would have for cases in which the victim is under 18 years of age. If the enhanced penalty resulted in an increase in annual prison commitments of 10 offenders, each receiving a two-year sentence, annual costs for the Department of Corrections could increase by approximately \$300,000.

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