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**INCREASED FINES FOR CRIMES
AGAINST SENIORS AND JUVENILES**

**House Bill 4876 as passed by the House
Sponsor: Rep. Jim Howell**

**House Bill 4880 as passed by the House
Sponsor: Rep. Jennifer Faunce**

**Second Analysis (1-14-00)
House Committee: Criminal Law and
Corrections
Senate Committee: Judiciary**

THE APPARENT PROBLEM:

Senior citizens and children are generally perceived as being more vulnerable to violent crimes. Because of their perceived vulnerability, children under the age of 18 and seniors are more likely to be targeted for violent crimes by criminals. Criminals often assume that people can be either too young or too old to adequately protect themselves and therefore pick the young or old as easier targets for violent attacks. Further, when children or the elderly are the victims of violent crimes it seems to garner more public sympathy and provoke greater public outrage. Some people believe that, to provide more protection to both youths and seniors, those who commit violent crimes against seniors, minors, or certain others who are defined as vulnerable adults under the Penal Code should be subject to enhanced penalties for their actions.

THE CONTENT OF THE BILLS:

Both bills would amend the Penal Code to allow a court to impose twice the normal fine for a crime committed against certain victims. House Bill 4880 (MCL 750.506c) would allow a court to order up to double the normal fine where the victim of a crime was 65 years of age or older. House Bill 4876 (MCL 750.506b) would allow a court to order up to twice the normal fine where the victim of a crime was less than 18 years old or was a "vulnerable adult." A vulnerable adult would include any individual over the age of 18 who, because of age, developmental disability, mental illness, or physical disability requires supervision or personal care or lacks the personal and social skills required to live independently; any individual 18 years old or older who is unable to protect him or herself from abuse, neglect, or exploitation because of a mental or physical impairment or because of advanced age and

who is suspected of being or believed to be abused, neglected, or exploited; or an adult who was placed in an adult foster care family home or an adult foster care small group home or an individual who displays an objectively manifested disability.

If a criminal were convicted of a crime where the punishment for the violation does not include a fine, the court could order, in addition to any other penalty, the following fines based upon the level and punishment of the crime:

- *If the violation was a misdemeanor punishable by imprisonment for less than six months, the court could impose a fine of no more than \$200.
- *If the violation was a misdemeanor punishable by imprisonment for six months, the fine could be no more than \$500.
- *If the violation was a misdemeanor punishable by imprisonment for one year, the fine could be no more than \$1,000.
- *If the violation was a misdemeanor punishable by imprisonment for more than one year but less than two years or if the violation was a felony punishable by imprisonment for no more than two years, the fine could be no more than \$2,000.
- *If the violation was a felony punishable by imprisonment for more than two years but not more than four years, the fine could be no more than \$4,000.
- *If the violation was a felony punishable by imprisonment for five years, the fine could be no more than \$5,000.

House Bills 4876 and 4880 (1-14-00)

*If the violation was a felony punishable by imprisonment for more than five years, the fine could be no more than \$10,000.

Both bills' provisions would apply only to those crimes committed on or after the bill took effect.

FISCAL IMPLICATIONS:

According to the House Fiscal Agency, the bills could increase the amount of state penal fine revenue going to local libraries to the extent that the bills led to increased collection of state penal fines. (1-14-00)

ARGUMENTS:

For:

The bills would offer more security for citizens who are more susceptible to violent crime than most of society. By increasing the fines for such crimes the bills will hopefully serve to deter some criminals from targeting these people as victims. Further, by not increasing jail or prison time the bills will not increase costs for imprisonment.

Criminals who choose to target people who are more vulnerable because of their age should face more severe punishment. Even if the bills' provisions fail to act as a deterrent, they still serve notice to the public at large that those in government feel that people who commit crimes against these groups who are often less able to protect themselves should be subject to harsher punishment.

Against:

The bills attempt to protect certain groups by enhancing the fines for crimes where those persons are victims. Whenever protections such as these are offered solely based upon arbitrary factors such as age, the question arises: Why should a hearty septuagenarian be protected more than a sickly 20 year old? There are undoubtedly a large number of persons who do not fit into the protected categories under these bills, but are every bit as vulnerable, if not more so, than the protected categories. Persons in their thirties suffering from any of a number of debilitating illnesses could be easy targets for criminals, often easier targets than the people protected under these bills.

According to the U.S. Department of Justice's Bureau of Justice Statistics Special Report on *Age Patterns of Victims of Serious Violent Crime* (September 1997), persons who are 65 years of age or older are the least likely age group to be victims of violent crime. It

would seem that criminals are apparently not targeting the elderly for violent crime, especially when one considers that this age group, due to increases in medical technology and an overall aging population, is steadily increasing in number. According to the study, persons between the age of 18 and 21 (a group not protected under either bill) were 17 times more likely to be the victim of serious violent crime (murder, rape, sexual assault, robbery, and aggravated assault) than persons age 65 or older. Persons age 12-24 composed 12 percent of the population, 35 percent of murder victims, and 49 percent of serious violent crime victims. Persons age 25 to 49 constituted 47 percent of the population, 53 percent of murder victims, and 44 percent of serious violent crime victims. Persons age 50 or older made up 30 percent of the population, 12 percent of murder victims, and 7 percent of serious violent crime victims.

Finally, it should be noted that the sentencing guidelines already include an offense variable (offense variable 10 - MCL 777.40) that deals with the exploitation of a vulnerable victim. This offense variable provides five points where the offender exploits a victim by a difference in size and/or strength, or because the victim was intoxicated, under the influence of drugs, asleep, or unconscious; 10 points where the offender exploits the victim's physical disability, mental disability, youth or agedness, or an abuse of a domestic relationship or of authority status; and 15 points where predatory conduct is involved. Thus, the guidelines already take into account the vulnerability of the victim in a more reasonable and fairer fashion.

POSITIONS:

The Department of State Police is neutral on the bills. (1-12-00)

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■ 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.