



House Office Building, 9 South
Lansing, Michigan 48909
Phone: 517/373-6466

USE OF BODY ARMOR DURING COMMISSION OF A CRIME: CONSECUTIVE SENTENCES

House Bill 5311 (Substitute H-1) First Analysis (5-3-00)

Sponsor: Rep. Larry Julian
Committee: Criminal Law and Corrections

THE APPARENT PROBLEM:

In Michigan and throughout the country, there have been many reports of offenders who committed violent crimes while wearing body armor. In one incident that took place in San Francisco in 1994, a police officer responding to a distress call was killed by a heavily armed suspect who was shielded by a Kevlar vest and bulletproof helmet. A couple years later, in Los Angeles, 11 police officers and six civilians reportedly were injured during a 20-minute gunfight between the police and two would-be bank robbers wearing full protective body armor. Other reports involve gang members, illegal drug manufacturers, terrorists, and members of paramilitary groups who were found wearing or in possession of body armor.

Michigan law currently regulates the sale and possession of weaponry, as well as armor-piercing ammunition. The Michigan Penal Code also makes it a felony for a person to commit or attempt to commit a crime involving a violent act against another person while wearing body armor (MCL 750.227f). However, some believe that penalty provided is not sufficient given the nature of such a crime. It has been suggested that allowing the sentence for such a crime to be served consecutively to the sentence for the underlying crime would provide a stiffer penalty and a greater degree of deterrence.

THE CONTENT OF THE BILL:

The Michigan Penal Code makes it a felony to commit or attempt to commit a crime that involves a violent act or the threat of a violent act while wearing body armor. The crime is currently punishable by not more than four years imprisonment and/or a fine of not more than \$2,000. The crime of wearing body armor during the commission or attempted commission of a crime is a separate crime in addition to the underlying crime or attempted crime. House Bill 5311 would amend the Penal Code to allow a court to require that a term of imprisonment for committing or attempting to commit

certain crimes while wearing body armor be served consecutively to any term of imprisonment imposed for the underlying crime. For example, if a person committed a robbery at gunpoint while wearing body armor, he or she would face sentence for the robbery (the underlying offense) and for the crime of wearing body armor during the commission of the robbery. The bill would allow a judge to require that the sentence for the robbery and the sentence for wearing body armor would have to be served one after the other.

MCL 750.227f

FISCAL IMPLICATIONS:

According to the House Fiscal Agency, the bill could increase state correctional costs depending upon the number of persons convicted of committing or attempting to commit a violent crime while wearing body armor and the number of those persons who received consecutive sentences for those crimes. In 1998, there were two criminal dispositions involving MCL 750.227f. Both individuals were sentenced to prison; however, data was not available regarding the length of the sentence applied to either individual. (5-2-00)

ARGUMENTS:

For:

Crimes committed by people wearing body armor warrant severe penalties. As reports from around the country show, people who use body armor during the commission of a crime pose a significantly higher threat both to police officers and to the public. The sense of invulnerability provided by the body armor leads to a greater willingness to engage in confrontations or shoot-outs with police -- a felon who knows that he or she is wearing body armor is more likely to shoot than surrender when confronted by police. Furthermore, gunmen wearing body armor can

House Bill 5311 (5-3-00)

hold police officers at bay and engage in lengthy shootouts that increase not only the likelihood that police officers will be killed or injured, but also the risk that bystanders will also be injured or killed. The mere fact that a person chooses to wear body armor during the commission of a crime is strong evidence that the he or she is willing, or is even planning, to shoot it out with police.

POSITIONS:

The Prosecuting Attorneys Association of Michigan supports the bill. (5-2-00)

The Michigan Fraternal Order of Police supports the bill. (5-2-00)

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.