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SENTENCING GUIDELINES FOR RECKLESS DRIVING NEAR EMERGENCY VEHICLES

House Bill 6015 (Substitute H-1) First Analysis (10-4-00)

Sponsor: Rep. Valde Garcia
Committee: Criminal Law and Corrections

THE APPARENT PROBLEM:

When police officers, firefighters and other emergency personnel stop motorists either to ticket them for violations or to give aid following an accident, their lives are in danger due to the drivers of cars and trucks who speed by in close proximity. However, current law provides four kinds of crimes which can be charged by law enforcement officials when drivers proceed without adequate caution and cause an accident on the roadside. The driver can be charged with simple negligence (and ticketed for careless driving), willful and wanton negligence (and ticketed for reckless driving), or if a death has occurred, the prosecutor can charge the driver with either negligent homicide or gross negligence in the commission of a homicide. The standard of proof for gross negligence in the commission of a homicide is very high and difficult prove. Consequently, negligent homicide is customarily charged when a death occurs, and the penalty imposed cannot exceed two years of imprisonment. However, the sentence often calls for a much shorter term of imprisonment.

Preventing these kinds of tragedies begins with public education. New drivers and veteran motorists must be reminded to slow down and to move to safer lanes where traffic is not impeded by the stopped vehicles, whether those belonging to the accident victims or the vehicles at the scene to give assistance or promote safety. Some states, Ohio and Indiana among them, also have enacted legislation to penalize motorists who do not steer clear of the emergency personnel working at accident scenes, or police personnel who have stopped vehicles to issue tickets. House Bill 5549, passed by the House earlier this session, would amend the Michigan Vehicle Code to establish criminal standards and penalties for drivers who drive unsafely near emergency vehicles. [For further information on House Bill 5549, see the House Legislative Analysis Section's analysis dated 5-11-00]. Companion legislation has been proposed to place the new crimes

that would be created under House Bill 5549 into the statutory sentencing guidelines.

THE CONTENT OF THE BILL:

House Bill 6015 would amend the Code of Criminal Procedure to place the felonies that would be created by House Bill 5549 into the statutory sentencing guidelines.

Causing an injury through failure to slow or to provide proper clearance for an emergency vehicle would be a Class G felony against a person with a two-year statutory maximum.

Causing a death through failure to slow or to provide proper clearance for an emergency vehicle would be a Class C felony against a person with a 15-year statutory maximum.

Causing an injury through failure to slow or to provide proper clearance for an emergency vehicle while drunk or impaired would be a Class A felony against a person with a statutory maximum of life in prison.

House Bill 6015 would not take effect unless House Bill 5549 is also enacted.

MCL 777.12

FISCAL IMPLICATIONS:

According to the House Fiscal Agency, the bill would have an indeterminate impact on state and local units of government. (10-2-00)

ARGUMENTS:

For:

The bill is a needed component of the criminal standards proposed in House Bill 5549. With the

completion and enactment of the statutory sentencing guidelines, newly created crimes need to be included into the guidelines so that penalties for the crime may be determined through the guideline structure. House Bill 6015 is needed to help House Bill 5549 to effect its desired purpose of encouraging motorists to slow down when they encounter police officers or emergency assistance personnel who have stopped their vehicles at the side of the road at the sites of accidents or routine traffic stops. When drivers with these bad driving habits take a law enforcement officer's life, or kill a firefighter or other emergency services worker at an accident scene, the negligent driver should be punished by a stiff fine and long prison sentence.

POSITIONS:

There are no positions on the bill.

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.