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SFA



BILL ANALYSIS

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House Bills 5440 and 5441 (Substitutes S-1 as reported)
House Bills 5442 and 5443 (Substitutes S-1 as reported by the Committee of the Whole)
Sponsor: Representative Jennifer Faunce (House Bill 5440)
Representative Larry Julian (House Bill 5441)
Representative Jerry O. Kooiman (House Bill 5442)
Representative Raymond Basham (House Bill 5443)
House Committee: Criminal Justice
Senate Committee: Judiciary

CONTENT

The bills would amend the Michigan Penal Code and the sentencing guidelines provisions of the Code of Criminal Procedure to revise the prohibition against, and the penalties for, assaulting or interfering with police, firefighters, emergency medical service workers, and other officials. The bills essentially would replace the current misdemeanor penalty with a range of felony penalties based on the injury caused, and would establish one set of penalties for offenses involving a peace officer, firefighter, or EMS worker, and another set of penalties for offenses involving local officials and officers enforcing local ordinances. The bills also would allow a court to impose consecutive sentences for a violation of the bills and another violation arising out of the same criminal transaction. In addition, one of the bills would increase the fines for fleeing and eluding.

The bills would take effect on July 15, 2002. House Bills 5440 (S-1) and 5442 (S-1) are tie-barred to each other; House Bill 5441 (S-1) is tie-barred to House Bill 5440; and House Bill 5443 (S-1) is tie-barred to House Bill 5442.

House Bill 5440 (S-1) would amend the Michigan Penal Code to establish graduated felony penalties, based on the extent of injury, for assaulting, battering, wounding, resisting, obstructing, opposing, or endangering a peace officer, firefighter, or EMS worker whom the offender knew or had reason to know was performing his or her duties. House Bill 5441 (S-1) would amend the Code of Criminal Procedure to include those offenses in the sentencing guidelines. A violation would be punishable as shown in Table 1.

Table 1

Violation	Max. Term of Imprisonment	Max. Fine	Felony Class	Crime Category
Assault, etc.	2 Years	\$2,000	G	Person
Assault, etc. Causing Bodily Injury Requiring Medical Care	4 Years	\$5,000	F	Person
Assault, etc. Causing Serious Impairment	15 Years	\$10,000	C	Person
Assault, etc. Causing Death	20 Years	\$20,000	B	Person

House Bill 5442 (S-1) would amend the Michigan Penal Code to revise provisions that prohibit obstructing, resisting, opposing, or assaulting certain officials in the performance of their duties; delete the current misdemeanor penalty for assaulting or committing bodily injury upon

a peace officer; and increase the maximum fines for the felonies of first-, second-, third-, and fourth-degree fleeing and eluding. The bill also would delete the current prohibition against hindering, obstructing, endangering, or interfering with a firefighter, which is a felony without a specific penalty (which makes it punishable by imprisonment for up to four years and/or a maximum fine of \$2,000).

The Penal Code makes it a misdemeanor punishable by up to two years' imprisonment, a maximum fine of \$1,000, or both, to do any of the following: 1) obstruct, resist, or oppose a sheriff, coroner, township treasurer, constable, or other officer or duly authorized person serving or attempting to serve or execute any process, rule, or order made or issued by a lawful authority; 2) resist an officer enforcing an ordinance, law, rule, order, or resolution of a city council, village council, or a township board; 3) assault, beat, or wound a sheriff, coroner, township treasurer, constable, or other duly authorized officer serving or attempting to serve or execute, or having served or attempted to serve or execute, any process, rule, or order; or 4) obstruct, resist, oppose, assault, beat, or wound any of the individuals included in these provisions or any other person authorized by law to maintain and preserve the peace, in his or her lawful acts, attempts, or efforts to maintain, preserve, and keep the peace.

The bill, instead, would prohibit a person from knowingly and willfully doing either of the following: 1) assaulting, battering, wounding, obstructing, or endangering a medical examiner, township treasurer, judge, magistrate, probation officer, parole officer, prosecutor, city attorney, court employee, court officer, or other officer or duly authorized person serving or attempting to serve or execute any process, rule, or order made or issued by lawful authority or otherwise acting in the performance of his or her duties; or 2) assaulting, battering, wounding, obstructing, or endangering an officer enforcing an ordinance, law, rule, order, or resolution of a city council, village council, or township board. House Bill 5443 (S-1) would amend the Code of Criminal Procedure to include these offenses in the sentencing guidelines. A violation would be a felony punishable as shown in Table 2.

Table 2

Violation	Max. Term of Imprisonment	Max. Fine	Felony Class	Crime Category
Assault, etc.	2 Years	\$2,000	G	Person
Assault, etc. Causing Bodily Injury Requiring Medical Care	4 Years	\$5,000	G	Person
Assault, etc. Causing Serious Impairment	10 Years	\$10,000	D	Person
Assault, etc. Causing Death	20 Years	\$20,000	B	Person

House Bill 5442 (S-1) also would increase the maximum fines for fleeing and eluding as shown in Table 3.

Table 3

Violation	Max. Term of Imprisonment	Current Max. Fine	Proposed Max. Fine
First-Degree Fleeing & Eluding	15 Years	\$10,000	\$15,000
Second-Degree Fleeing & Eluding	10 Years	\$5,000	\$10,000
Third-Degree Fleeing & Eluding	5 Years	\$1,000	\$5,000
Fourth-Degree Fleeing & Eluding	2 Years	\$500	\$2,000

In addition, the bill would change the sentencing guidelines designation for interfering with a police investigation by committing a crime or threatening to kill or injure, from a Class F felony

against a person to a Class D felony against a person.

Proposed MCL 750.81d (H.B. 5440)
MCL 777.16d (H.B. 5441)
MCL 750.241 et al. (H.B. 5442)
MCL 777.16x (H.B. 5443)

Legislative Analyst: Patrick Affholter

FISCAL IMPACT

The bills would result in an indeterminate increase in costs to State and local government, by creating new offenses, increasing the penalties for existing offenses, and allowing consecutive sentencing.

House Bills 5440 (S-1) and 5441 (S-1)

According to the 1999 Department of Corrections Statistical Report, 330 offenders were convicted of violating MCL 750.479, which currently includes obstructing, resisting, opposing, assaulting, beating, or wounding both peace officers and several other types of officers. (This section would be amended by House Bill 5442 (S-1).) There are, however, no data that identify the extent of the injury to the officer. Under the bills, these offenses against certain officers would be separate felonies with penalties based on the extent of injury to the officer. Table 4 shows the sentencing guideline minimum ranges for the four new violations.

Table 4

Violation	Felony Class	Sentencing Guideline Minimum Range
Assaulting, Resisting, or Obstructing Peace Officers, Firefighters, or EMS Workers	G	0-3 months to 7-23 months
Assaulting, Resisting, or Obstructing Causing Injury	F	0-3 months to 17-30 months
Assaulting, Resisting, or Obstructing Causing Serious Impairment	C	0-11 months to 62-114 months
Assaulting, Resisting, or Obstructing Causing Death	B	0-18 months to 117-160 months

The Class G felony offenders would receive the same penalty as they would have received for violating MCL 750.479; therefore, the State would incur no additional costs. In the absence of data, if one assumes that 10 offenders would be convicted of each of the three felonies with increased penalties, sentenced to prison, and receive the longest minimum sentences, it would cost the State an additional \$4.9 million, at an average annual cost of incarceration of \$25,000.

House Bills 5442 (S-1) and 5443 (S-1)

As noted above, according to the 1999 Department of Corrections Statistical Report, 330 offenders were convicted of violating MCL 750.479, but there are no data to indicate how many offenders would be convicted if the types of officials were changed, or to indicate how many would receive increased penalties under the new felonies classified by the extent of the inflicted injury. Table 5 shows the sentencing guideline minimum ranges for the new violations.

Table 5

Violation	Felony Class	Sentencing Guideline Minimum Range
Assaulting/Obstructing Certain Officials Causing Injury	G	0-3 months to 7-23 months
Assaulting/Obstructing Certain Officials Causing Serious Impairment	D	0-6 months to 43-76 months
Assaulting/Obstructing Certain Officials Causing Death	B	0-18 months to 117-160 months

In the absence of data, if one assumes that 10 offenders would be convicted of each of the three felonies with increased penalties, sentenced to prison, and receive the longest minimum sentences, it would cost the State an additional \$4.1 million, at an average annual cost of incarceration of \$25,000.

By changing the designation for interfering with a police investigation by committing a crime or threatening to kill or injure from a Class F felony to a Class D felony, House Bill 5443 (S-1) also would increase the sentencing guideline minimum range an offender could receive from 0-3 to 17-30 months to 0-6 to 43-76 months. For each offender convicted of this offense, the State would incur an additional cost of \$96,000, at an annual average cost of incarceration of \$25,000.

Date Completed: 4-16-02

Fiscal Analyst: Bethany Wicksall