

Legislative Analysis



MANDATORY MINIMUM SENTENCE FOR FLEEING & ELUDING

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House Bills 4482-4483

Sponsor: Rep. John Espinoza

Committee: Judiciary

Complete to 6-10-09

A SUMMARY OF HOUSE BILLS 4482-4483 AS INTRODUCED 3-3-09

The bills would provide a two-year mandatory minimum sentence for the crime of fleeing and eluding a law enforcement officer and would revise the sentencing guidelines accordingly.

Currently, the crime of fleeing and eluding a law enforcement officer is a tiered felony offense, with the maximum term of imprisonment and maximum fine that can be imposed based on the elements of the transaction. [That is, the degree of the crime becomes more serious if the violation results in an accident (3rd degree), serious injury (2nd degree), or the death of another person (1st degree)]. The penalty currently ranges from a maximum term of imprisonment of two years and/or maximum fine of \$2,000 for fourth degree fleeing and eluding, to a maximum of 15 years imprisonment and/or maximum fine of \$15,000 for a conviction of first-degree fleeing and eluding.

House Bill 4482 would amend the Michigan Penal Code (MCL 750.479a) to revise the penalties for fleeing and eluding. For first-, second-, and third-degree fleeing and eluding, the bill would mandate a two-year minimum sentence of imprisonment. The existing maximums would not be changed (currently, five, ten, and fifteen years, respectively). Fourth-degree fleeing and eluding would result in a mandatory two-year term of imprisonment (which would also be the maximum).

In addition, the maximum amount for a fine that could be imposed in addition to the term of imprisonment would remain at the current maximum levels—\$2,000 for fourth-degree, \$5,000 for third-degree, \$10,000 for second-degree, and \$15,000 for first-degree.

(Note: A similar penalty for fleeing and eluding is found in the Michigan Vehicle Code, MCL 257.602a. The prohibition on fleeing and eluding contained in the vehicle code only applies if the police officer or DNR conservation officer who gives the signal to stop is in uniform and operating a marked vehicle. Currently, the maximum terms of imprisonment for 4th through 1st degree fleeing and eluding are the same under both statutes, though the maximum fine amounts are higher for each level under the Michigan Penal Code. In addition, a person who is found guilty of fleeing and eluding an officer under the vehicle code is assessed a \$1,000 driver responsibility fee each year for two consecutive years. Further, the vehicle code prohibits a person from being convicted and sentenced under both statutes for conduct arising out of the same transaction.)

House Bill 4483 would amend the Code of Criminal Procedure (777.16x). The sentencing guidelines list the maximum terms of imprisonment for crimes for which a variable sentencing structure applies. Since House Bill 4482 would remove the maximum term of imprisonment for fourth-degree fleeing and eluding, making it a mandatory sentence instead, the reference to fourth-degree fleeing and eluding would be deleted. The bill is tie-barred to House Bill 4482.

FISCAL IMPACT:

The bills' fiscal impact on state and local correctional systems would depend on how they affect numbers of convictions and severity of sentences, particularly with regard to whether fleeing and eluding was prosecuted under the Penal Code as amended by HB 4482 or under analogous provisions of the Michigan Vehicle Code. To the extent that fewer offenders were sentenced to jail, affected counties could experience reduced costs; jail costs vary by jurisdiction. The state could experience reduced costs of felony probation supervision, which averages about \$2,100 per supervised offender per year.

However, the state could incur significant increased costs of prison incarceration. In 2007, there were a total of 594 sentences for penal code fleeing and eluding offenses (exclusive of sentences for attempted offenses), of which 422 were for sentences other than prison (jail, probation, or some other sanction such as referral under the Holmes Youthful Trainee Act). With a two-year mandatory minimum sentence, those 422 offenders would equate to 844 prison beds. In addition, of the 105 offenders committed to the Department of Corrections in 2007, 50 arrived with sentences of less than two years; annualized to two-year sentences, those 50 offenders would equate to about 85 prison beds. Thus, assuming no changes in charging and pleading practices, the bills could increase prison bed space needs by roughly 850 to 900 beds.

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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.