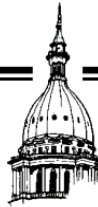




Senate Fiscal Agency
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BILL



ANALYSIS

Telephone: (517) 373-5383
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Senate Bill 250 (Substitute S-1 as reported)
Senate Bill 360 (as reported without amendment)
Sponsor: Senator Goeff Hansen
Committee: Judiciary

Date Completed: 5-30-13

RATIONALE

Nearly 2 million American workers report having been victims of workplace violence each year, and many more cases go unreported, according to the Federal Occupational Safety & Health Administration (OSHA). Health care workers have been identified by research and statistics as being particularly at risk. According to the Michigan Nurses Association, violence toward health care workers has risen in recent years, and more than half of emergency department nurses nationwide have been physically assaulted at work. Some people believe that enhanced criminal penalties for assaulting a nurse or physician could provide a deterrent to workplace violence against these health professionals and, compared with existing penalties, would more adequately punish those who did assault a doctor or nurse.

CONTENT

Senate Bill 250 (S-1) would amend the Michigan Penal Code to prohibit and prescribe felony penalties for assaulting, battering, wounding, or endangering a nurse or physician performing his or her duties.

Senate Bill 360 would amend the Code of Criminal Procedure to include in the sentencing guidelines the felonies proposed by Senate Bill 250 (S-1).

Senate Bill 360 is tie-barred to Senate Bill 250.

Senate Bill 250 (S-1)

The Penal Code prescribes criminal penalties for an individual who assaults, batters, wounds, resists, obstructs, opposes, or endangers a person who is a police officer, peace officer, firefighter, emergency medical service personnel, or other listed person, whom the individual knows or has reason to know is performing his or her duties.

The bill also would prescribe criminal penalties for an individual who assaulted, battered, wounded, or endangered a nurse or physician whom the individual knew or had reason to know was performing his or her duties.

A violation of the current prohibition is a felony punishable by up to two years' imprisonment and/or a maximum fine of \$2,000. If the violation causes a bodily injury requiring medical attention or medical care, it is punishable by up to four years' imprisonment and/or a maximum fine of \$5,000. If the violation causes serious impairment of a body function, it is punishable by up to 15 years' imprisonment and/or a maximum fine of \$10,000. A violation causing death is punishable by up to 20 years' imprisonment and/or a maximum fine of \$20,000. A term of imprisonment may run consecutively to any term of imprisonment imposed for another violation arising from the same transaction. Under the bill, the same penalties would apply to a person who assaulted, battered, wounded, or endangered a nurse or physician knowing or having reason to know the nurse or physician was performing his or her duties.

Senate Bill 360

Under the bill, assaulting, battering, or endangering a nurse or physician would be a Class G felony against a person, with a statutory maximum sentence of two years' imprisonment.

The bill also would include assaulting, resisting, or obstructing nurses or physicians in the current sentencing guidelines, as shown in Table 1.

Table 1

Offense	Class & Category	Stat. Max. Sentence
Assaulting, resisting, or obstructing certain people causing injury	F-Person	4 years
Assaulting, resisting, or obstructing certain people causing serious impairment	C-Person	15 years
Assaulting, resisting, or obstructing certain people causing death	B-Person	20 years

MCL 750.81d (S.B. 250)
777.16d (S.B. 360)

ARGUMENTS

(Please note: The arguments contained in this analysis originate from sources outside the Senate Fiscal Agency. The Senate Fiscal Agency neither supports nor opposes legislation.)

Supporting Argument

Violence against health care professionals is a serious and growing problem. An official with the Michigan Nurses Association testified before the Senate Judiciary Committee that more than half of emergency department nurses have been physically assaulted at work, and that one in four nurses have experienced such violence more than 20 times in the past three years. According to OSHA, "[H]ealth care and social service workers have faced a significant risk of job-related violence" and assaults are "a serious safety and health hazard within these industries" ("Guidelines for Preventing Workplace Violence for Health Care & Social Service Workers"). The OSHA report cites Bureau of Labor Statistics (BLS) data showing that 48% of all nonfatal injuries from occupational assaults and violent acts in 2000 occurred in health care and social services, with most of those incidents occurring in hospitals and other care facilities. That year, according to the BLS data, for every 10,000 full-time workers, 9.3 health services workers suffered injuries resulting from assault and violent acts, compared to an injury rate of 2.0 for the

private sector overall. The rate was 25.0 for workers in nursing and personal care facilities. While these data may appear to be dated, there is no reason to believe the solution has improved, based on the recent testimony.

By establishing felony graduated penalties for people who assault and injure nurses and physicians while they perform their professional duties, the bills would recognize the high risk of workplace violence for many health care workers in Michigan.

The bills also would more adequately punish offenders who attack the very people providing care for them, and could serve as a deterrent to such violent actions. Under current law, for example, a "simple" assault or assault and battery is a misdemeanor punishable by imprisonment for up to 93 days and a \$500 maximum fine. An unarmed assault that inflicts serious or aggravated injury also is a misdemeanor, with a maximum term of one year's incarceration and a fine of up to \$1,000. Under the bills, assaulting, battering, wounding, or endangering a nurse or physician while he or she was performing his or her duties would be a felony punishable by up to two years' imprisonment and/or a maximum fine of \$2,000, with graduated

penalties for a violation that caused bodily injury, serious impairment, or death.

Response: The bill should apply to assaults against all medical professionals who provide direct patient care as well as those supervised by these regulated professionals, not just nurses and physicians. Providing a safe environment for both patients and all health care professionals should be a priority.

Legislative Analyst: Patrick Affholter

FISCAL IMPACT

The bills would result in an indeterminate increase in costs of incarceration and community supervision. In 2011, there were 3,014 individuals convicted of the crime that would be expanded under Senate Bill 250 (S-1): 2,824 individuals were convicted of the base offense, 180 were convicted of causing bodily injury, nine were convicted of causing serious impairment, and one was convicted of causing death.

Fiscal Analyst: Dan O'Connor

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This analysis was prepared by nonpartisan Senate staff for use by the Senate in its deliberations and does not constitute an official statement of legislative intent.