



House
Legislative
Analysis
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ESTABLISH DEGREES OF FLEEING AND ELUDING

House Bill 4534

Sponsor: Rep. Terry London

Committee: Judiciary and Civil Rights

Complete to 8-8-95

A SUMMARY OF HOUSE BILL 4534 AS INTRODUCED 3-7-95

The bill would amend the Michigan Vehicle Code to establish differing degrees of fleeing and eluding. The bill would repeal the portions of the current law providing penalties for fleeing and eluding convictions, and create a new system of punishments for varying degrees of the offense (also newly defined in the bill). The bill is tie-barred to Senate Bill 378, which would place parallel provisions in the penal code.

House Bill 4534. The degrees of the offense of fleeing and eluding would stem from the current description of the crime with consideration given to the circumstances surrounding each case. Currently, the operator of a motor vehicle has committed the crime of fleeing and eluding when he or she ignores the lawful attempt of a police or conservation officer to halt his or her vehicle and instead increases the speed of the vehicle, extinguishes the lights, or otherwise attempts to avoid or escape the officer. It is not a violation to refuse to stop for an officer who is not in uniform or where the vehicle driven by the officer is not identifiable as an official police or Department of Natural Resources vehicle.

The bill would make establish four degrees of fleeing and eluding. Fourth-degree fleeing and eluding would consist simply of having attempted to evade an officer as described above and would be a felony punishable by imprisonment for up to two years, a fine of up to \$500, or both.

Third degree fleeing and eluding would include the elements needed to establish the crime of fourth-degree fleeing and eluding compounded by one or more of the following: 1) the operator's flight resulted in a collision or accident; 2) part of the violation occurred in a 35 mile per hour or less speed zone; or 3) the operator had a previous conviction for fourth-degree fleeing and eluding, attempted fourth-degree fleeing or eluding, or another current or former law of this state which prohibited substantially similar behavior. Third-degree fleeing and eluding would be punishable by up to five years imprisonment, a fine of up to \$1,000, or both.

The crime of second-degree fleeing and eluding would be established under the following circumstances: The operator of the motor vehicle had one or more prior convictions for actual or attempted first-, second-, or third-degree fleeing and eluding, or for violations of a state law which prohibited substantially similar behavior; or the operator had any combination of two or more prior convictions for fourth-degree or attempted fourth-degree fleeing and eluding, or for any violation of a current or former law of this state prohibiting substantially similar conduct; or the individual's fleeing and eluding violation

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resulted in serious injury. The bill would define a serious injury as one which caused permanent serious bodily disfigurement or seriously and irreparably impaired the functioning of a body organ or limb. This would include, but not be limited to: the loss of or loss of use of a limb, hand, foot, finger, thumb, eye, or ear; the loss of or substantial impairment of a bodily function; serious visible disfigurement; being comatose for more than three days; measurable brain impairment; a skull or other serious bone fracture; or a subdural hemorrhage or hematoma. Second-degree fleeing and eluding would be punishable by up to 10 years imprisonment, a fine of up to \$5,000, or both.

A fleeing and eluding violation that caused the death of another individual would constitute first-degree fleeing and eluding. First-degree fleeing and eluding would be punishable by up to 15 years imprisonment, a fine of \$10,000, or both.

As part of sentencing an individual for third- or fourth-degree fleeing and eluding, the bill would require the court to order the secretary of state to suspend the violator's license for a period of one year. He or she would not be allowed to receive a restricted license during the first six months of that suspension and if the individual was imprisoned as part his or her sentence, the period of the suspension would not begin to run until after the term of imprisonment had been completed. Where an individual was convicted of second- or first-degree fleeing and eluding, the court would have to order the secretary of state to revoke to violator's license as part of the sentencing.

A conviction for any degree of fleeing and eluding would not bar any other convictions or sentences for any other applicable crime arising out of the same incident, except that the individual could not also be convicted and sentenced for a violation of the Michigan Penal Code provisions regarding the crime of fleeing and eluding (MCL 750.479a) for conduct arising out of the same transaction.

MCL 257.303 et al.