



Senate Fiscal Agency
P. O. Box 30036
Lansing, Michigan 48909-7536

BILL ANALYSIS



Telephone: (517) 373-5383
Fax: (517) 373-1986

House Bill 4534 (Substitute S-2 as reported)
Sponsor: Representative Terry London
House Committee: Judiciary and Civil Rights
Senate Committee: Judiciary

CONTENT

The bill would amend the Michigan Vehicle Code to replace the current misdemeanor and felony penalties for fleeing and eluding a police or conservation officer with four degrees of the offense, each of which would be a felony. The bill would take effect on June 1, 1997, and is tie-barred to Senate Bill 378, which would make similar amendments to the Michigan Penal Code.

Currently, failing to stop at the direction of a police or conservation officer is a misdemeanor punishable by imprisonment for not less than 30 days or more than one year and a maximum fine of \$1,000 plus the costs of prosecution. A person who commits a repeat offense within five years, or causes serious bodily injury, is guilty of a felony punishable by imprisonment for at least one year but not more than four years, a fine of up to \$10,000, and the costs of prosecution. The court may depart from the minimum prison term for either a misdemeanor or a felony if there are substantial and compelling reasons and if the court imposes community service as part of the sentence.

The bill would delete the current penalty provisions for fleeing and eluding a police or conservation officer. Except as provided below, the offense would be fourth-degree fleeing and eluding, punishable by up to two years' imprisonment, a maximum fine of \$500, or both. A violation would be third-degree fleeing and eluding, punishable by up to five years' imprisonment, a maximum fine of \$1,000, or both, if the violation resulted in a collision or accident; a portion of the violation occurred in an area in which the speed limit was 35 miles an hour or less, whether that limit was posted or imposed as a matter of law; or the driver had a prior conviction for a violation or attempted violation of fourth-degree fleeing and eluding or fleeing and eluding under a current or former Michigan law prohibiting substantially similar conduct.

A violation would be second-degree fleeing and eluding, punishable by up to 10 years' imprisonment, a maximum fine of \$5,000, or both, if the violation resulted in "serious injury" to a person; the driver had one or more prior convictions for a violation or attempted violation of first-, second-, or third-degree fleeing and eluding or fleeing and eluding under a current or former Michigan law prohibiting substantially similar conduct; or the driver had any combination of two or more prior convictions for a violation or attempted violation of fourth-degree fleeing and eluding or fleeing and eluding under a current or former Michigan law prohibiting substantially similar conduct. A violation would be first-degree fleeing and eluding, punishable by up to 15 years' imprisonment, a maximum fine of \$10,000, or both, if it resulted in the death of another individual.

"Serious injury" would mean a physical injury that constituted permanent serious bodily disfigurement or that seriously and irreparably impaired the functioning of a body organ or limb. Serious injury would include, but would not be limited to loss of a limb or of use of a limb; loss of

a hand, foot, finger, or thumb or of its use; loss of an eye or ear or of its use; loss or substantial impairment of a bodily function; serious visible disfigurement; a comatose state that lasted longer than three days; measurable brain damage or mental impairment; a skull fracture or other serious bone fracture; or subdural hemorrhage or hematoma.

As part of a sentence imposed for first- or second-degree fleeing and eluding, the bill would require the court to order the Secretary of State to revoke the defendant's driver's license. The bill would include first- and second-degree fleeing and eluding in the Vehicle Code's list of offenses for which the Secretary of State may not issue and must revoke a driver's license. Third- and fourth-degree fleeing and eluding would be included in the Vehicle Code's list of offenses for which the Secretary of State must suspend a person's license for not less than 90 days or more than two years.

MCL 257.303 et al.

Legislative Analyst: P. Affholter

FISCAL IMPACT

The bill would have an indeterminate, yet likely minimal fiscal impact on the Department of Corrections (DOC). Potential cost increases could result from the increased penalties associated with fourth-, third-, second, and first-degree fleeing and eluding.

There are no data presently available on the number of convictions for the current misdemeanor offense of fleeing and eluding. To the extent that the new felony provisions increased prison commitments, costs could increase, although the new felony also would allow for probation and/or jail.

According to annual commitment data collected by the DOC for the current felony provisions of fleeing and eluding under both the Vehicle Code and the Penal Code (which require either a prior conviction or serious injury), there were a total of 37 convictions in 1995, 20 (54%) receiving a prison sentence. The average minimum sentence for these convictions was 1.7 years. Given that the proposed third- and second-degree fleeing and eluding are somewhat similar to the current felony provisions, only with longer maximum sentence options, and that judges currently are not sentencing near the existing four-year maximum, it is anticipated that the new provisions would have only a minimal effect on sentence lengths, and even less on the number of increased commitments. The proposed first-degree fleeing and eluding provision, with a proposed 15-year maximum penalty for causing death while fleeing and eluding, could increase average sentence lengths for those convicted under this provision. However, it is also possible that currently, those offenders who cause a death while fleeing and eluding, are admitted to the Department under a separate statute, such as manslaughter with a motor vehicle, which also carries a maximum penalty of 15 years.

Date Completed: 12-4-96

Fiscal Analyst: M. Hansen

floor/hb4534

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.