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## FINGERPRINTING FOR 93-DAY ORDINANCE VIOLATIONS

### House Bill 5531 (Substitute H-1) First Analysis (4-2-98)

**Sponsor: Rep. Kirk Profit**  
**Committee: Judiciary**

#### ***THE APPARENT PROBLEM:***

Criminal violations of state law that are punishable by imprisonment for 93 days or more trigger statutory fingerprinting and criminal reporting requirements at the time of arrest. When someone is arrested for a crime carrying a penalty of 93 or more days' imprisonment, the arresting agency is required to take the person's fingerprints and send them to the Criminal Records Division of the Department of State Police and to the Federal Bureau of Investigation, and information on the crime is entered into a computerized network, the Law Enforcement Information Network (LEIN). However, for violations of state crimes punishable by imprisonment for less than 93 days, these statutory fingerprinting and criminal reporting requirements are triggered at conviction -- not at the time of arrest.

Local units of government can adopt ordinances based on state statutes, but jail penalties for violations of local ordinances typically are limited by statute to imprisonment for not more than 90 days, which means that these ordinance violations cannot be entered into the LEIN system until there is a conviction. One result of this 90-day local ordinance maximum is that a violation of the state domestic assault statute is entered in the LEIN system upon arrest, whereas arrests for violations of locally-adopted ordinances based on the state domestic assault law are not. However, earlier this session, a package of bills (House Bills 4964-4968) were reported from the House Committee on Local Government that would allow local units of government to increase the maximum jail penalty from 90 days to 93 days for violations of local ordinances that were based on state statutes carrying 93-day maximums, thereby providing the same arrest information through the LEIN system for violations of local violations as for violations of corresponding state law.

However, apparently not only would the package of bills allowing 93-day jail terms for ordinance violations provide information through the LEIN, they also would trigger the same fingerprinting requirements that now exist for 93-day state crimes. The state police reportedly have indicated that they would be inundated with fingerprint records if all arrests for violations of existing 90-day misdemeanor ordinances resulted in mandatory fingerprinting upon arrest for such violations, and they apparently have no way of tracking ordinance violations until a conviction is entered. Legislation has been introduced to fix this problem with the package of 93-day ordinance bills.

#### ***THE CONTENT OF THE BILL:***

Currently, under the criminal identification and records act, as soon as someone is arrested for a crime for which the penalty is more than 92 days' imprisonment, or a \$1,000 fine, or both, the police immediately take the person's fingerprints and forward them to the Department of State Police. The bill would amend the act to allow a law enforcement agency to take the fingerprints of someone arrested for ordinance violations that substantially corresponded to a state law with a maximum imprisonment of 93 days, but would prohibit forwarding such fingerprints before conviction. However, if the person were convicted of such an ordinance violation and fingerprints had not been taken, the bill would require the law enforcement agency to take the person's fingerprints and forward them to the state police within 72 hours.

The bill would not take effect unless House Bills 4964, 4965, 4966, 4967, and 4968 were enacted into law. (These bills would amend various local government enabling statutes to allow local governments to increase the maximum jail penalty from 90 days to 93

days for violations of local ordinances based on state statutes carrying 93-day maximum penalties. They are currently on the House calendar.)

MCL 28.243

***FISCAL IMPLICATIONS:***

Fiscal information is not available.

***ARGUMENTS:***

***For:***

The bill would correct a problem raised by the package of bills reported earlier this session from the House Committee on Local Government that would allow 93-day imprisonment for certain local ordinance violations. Instead of requiring fingerprinting upon arrest for such ordinance violation -- and the forwarding of such fingerprints to the state police, who have no way to track ordinance violations until a conviction is entered -- the bill would instead allow fingerprinting upon arrest, while prohibiting sending the fingerprints to the state police until a conviction were obtained.

***POSITIONS:***

The Department of State Police indicated support for the bill. (3-31-98)

Analyst: S. Ekstrom

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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.