

Senate Fiscal Agency
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SFA**BILL ANALYSIS**

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Senate Bills 1373 and 1374 (as introduced 9-26-00)
Sponsor: Senator Bev Hammerstrom
Committee: Families, Mental Health and Human Services (Senate Bill 1373)
Judiciary (Senate Bill 1374)

Date Completed: 9-27-00

CONTENT

Senate Bills 1373 and 1374 would amend the Michigan Penal Code and the Code of Criminal Procedure, respectively, to provide criminal penalties for threatening or harming an employee of the Family Independence Agency (FIA) while the individual was performing his or her duties as an FIA employee or because of the individual's status as an FIA employee, and include the felony offenses of harming an FIA employee in the sentencing guidelines provisions. Senate Bill 1374 is tie-barred to Senate Bill 1373.

Senate Bill 1373

Under the bill, it would be a misdemeanor, punishable by up to one year's imprisonment, a maximum fine of \$1,000, or both, for a person to communicate to any other person a threat that he or she would physically harm an individual who was an FIA employee because of his or her status as an FIA employee.

It would be a felony, punishable by up to two years' imprisonment, a maximum fine of \$1,000, or both, for a person to assault or assault and batter an individual and cause any physical injury while that individual was performing his or her duties as an FIA employee or because of his or her status as an FIA employee. If the assault or assault and battery caused the FIA employee "serious impairment of body function", the crime would be a felony punishable by up to five years' imprisonment and/or a fine of not less than \$1,000 or more than \$5,000.

"Serious impairment of body function" would mean that phrase as used in the Michigan Vehicle Code's drunk driving provisions (MCL 257.625(5)). Under the Vehicle Code, "serious impairment of a body function" includes, but is not limited to, one or more of the following:

- Loss of a limb or use of a limb.
- Loss of a hand, foot, finger, or thumb or use of a hand, foot, finger, or thumb.
- Loss of an eye or ear or use of an eye or ear.
- Loss or substantial impairment of a bodily function.
- Serious visible disfigurement.
- A comatose state that lasts for more than three days.
- Measurable brain damage or mental impairment.
- A skull fracture or other serious bone fracture.
- Subdural hemorrhage or subdural hematoma.

A conviction or sentence imposed for a violation of the bill would not preclude a conviction or sentence for a violation of any other applicable law.

Senate Bill 1374

Under the bill, assault and battery of an FIA employee would be categorized in the sentencing guidelines as a Class E felony against a person, with a statutory maximum penalty of two years' imprisonment, and

assault and battery of an FIA employee that caused serious impairment of body function would be categorized as a Class E felony against a person, with a statutory maximum penalty of five years' imprisonment, as proposed by Senate Bill 1373.

Proposed MCL 750.81c (S.B. 1373)
MCL 777.16d (S.B. 1374)

Legislative Analyst: P. Affholter

FISCAL IMPACT

Senate Bills 1373 and 1374 would have an indeterminate fiscal impact on State and local government.

There are no data to indicate how many offenders would be convicted of assaulting an individual performing his or her duties as an FIA employee, nor are there data to indicate how many offenders would be convicted of assaulting an FIA employee and causing serious impairment of body function. The felonies would be Class E offenses which carry a sentencing guidelines recommendation ranging from 0-3 months to 24-38 months.

According to the Department of Corrections statistical report, in 1998, there were 1,739 people convicted of felonious assault (MCL 750.82) and 438 or 25% received a prison sentence. This crime is a Class F felony and carries a maximum sentence of four years which is more than the proposed two-year maximum sentence for assault of an FIA employee and less than the proposed five-year maximum for assaulting an FIA employee causing serious impairment of body function. However, if one assumed that 10 of these offenders assaulted FIA employees, that two of the assaults resulted in serious impairment of body function, and that the offenders received sentences equal to two-thirds of the maximum sentence, given an average annual cost of incarceration of \$22,000, the cost of incarceration to the State would be \$352,000 per year. For offenders sentenced at the lower end of sentencing guidelines recommendation, the cost of incarceration would be incurred by local units of government.

Also, there are no data to indicate how many people would be convicted of threatening to assault an FIA employee. This would be a misdemeanor and local units of government would receive the fine revenue or incur the cost of incarceration.

Fiscal Analyst: K. Firestone

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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.