



**House  
Legislative  
Analysis  
Section**

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**ANTI-TERRORISM LAWS**

**Senate Bill 930 (Substitute H-1)**  
**Sponsor: Sen. Dan L. DeGrow**

**House Bill 5495 (Substitute H-1)**  
**Sponsor: Rep. Jim Howell**

**Senate Bill 936 with committee  
amendment**  
**Sponsor: Sen. Bill Bullard, Jr.**

**Senate Bill 939 with committee  
amendment**  
**Sponsor: Sen. John J. H. Schwarz, M.D.**

**Senate Bill 942 (Substitute H-1)**  
**Sponsor: Sen. Bev Hammerstrom**

**Senate Bill 946 (Substitute H-1)**  
**Sponsor: Sen. William Van Regenmorter**

**House Bill 5520 (Substitute H-2)**  
**Sponsor: Rep. Douglas Bovin**

**Senate Bill 948 with committee  
amendment**  
**Sponsor: Sen. Mike Goschka**

**Senate Bill 949 with committee  
amendment**  
**Sponsor: Sen. Loren Bennett**

**Senate Bill 995 with committee  
amendment**  
**Sponsor: Sen. Don Koivisto**

**Senate Bill 997 with committee  
amendment**  
**Sponsor: Sen. Burton Leland**

**House Committee: Criminal Justice**  
**Senate Committee: Judiciary**

**First Analysis (2-27-02)**

***THE APPARENT PROBLEM:***

Prior to last September, terrorism was, for many Americans, the subject of action movies or news articles about events in foreign countries. However, since the events of September 11, 2001, when terrorists destroyed the World Trade Center, damaged the Pentagon, and crashed four jumbo jets, terrorism has become very real. For those in law enforcement who are charged with enforcing laws and preserving public safety, September 11<sup>th</sup> became a wake-up call to examine municipal and school emergency plans; the safety of governmental infrastructures such as water supplies, the food supply, power plants, and governmental buildings; places where large crowds gather such as stadiums, bus and train stations, and schools; and especially, the adequacy of existing laws to deter terrorist threats and to punish terrorist acts.

After scrutinizing Michigan laws, many felt that existing laws needed to be revised to more adequately address the threat of acts of terrorism against Michigan targets. Last month, the House passed a multi-bill package of legislation that addressed several issue identified as needing reform such as increasing penalties for putting poisonous substances in food, water supplies, and medicines; allowing the seizure of certain property connected with terrorist activities; and requiring persons convicted of terrorist crimes to reimburse local governments for costs associated with responding to real and threatened acts of terrorism. As part of a bipartisan, bi-cameral approach addressing the issues revolving around possible acts of terrorism on Michigan soil, the Senate has also passed a package of legislation.

**Senate Bills 930, 936, 939, 942, 946, 948-949, 995, 997,  
House Bills 5495 and 5520 (2-27-02)**

## ***THE CONTENT OF THE BILLS:***

The bills are part of a multi-bill package that would, among many provisions, create the Michigan Anti-terrorist Act, establish penalties, require reimbursement to municipalities to recover certain costs associated with terrorist acts, and remove the statute of limitations for crimes of terrorism. The bills would take effect May 1, 2002. All of the bills are tie-barred to Senate Bill 930. Specifically, the bills would do the following:

Senate Bill 930 would create the "Michigan Anti-Terrorism Act" as Chapter 83-A of the Michigan Penal Code (MCL 750.543a et. al.). The bill would prescribe criminal penalties for various violations involving an "act of terrorism".

An "act of terrorism" would mean an act that would be a "violent felony" under Michigan law, whether or not committed in Michigan, that was dangerous to human life and intended to intimidate or coerce a civilian population or influence or affect the conduct of a government or a unit of government through intimidation or coercion. "Violent felony" would mean a felony in which an element was the use, attempted use, or threatened use of physical force against a person, or the use, attempted use, or threatened use of a harmful biological substance or device, a harmful chemical substance or device, a harmful radioactive substance or device, an explosive device, or an incendiary device.

Soliciting or Providing Material Support or Resources. The bill would prohibit a person from knowingly raising, soliciting, or collecting "material support or resources" intending that the support or resources be used, in whole or in part, to plan, prepare, carry out, or avoid apprehension for committing an act of terrorism against the United States, its citizens, this state, a political subdivision of the state, or a local unit of government.

The bill also would prohibit a person from knowingly providing material support or resources to a person, knowing that the person would use the support or resources, in whole or in part, to plan, prepare, carry out, facilitate, or avoid apprehension for committing an act of terrorism against the United States or its citizens, this state, a political subdivision of the state, or a local unit of government.

A violation of either prohibition would be a felony punishable by up to 20 years imprisonment, a fine of not more than \$20,000, or both.

"Material support or resources" would mean currency or other financial securities, financial services, lodging, training, safe houses, false documentation or identification, communications equipment, facilities, weapons, lethal substances, explosives, personnel, transportation, any other kind of physical assets or intangible property, and expert services or expert assistance.

Making a Terrorist Threat. A person would be guilty of making a terrorist threat or of making a false report of terrorism if he or she did either of the following:

- threatened to commit an act of terrorism and communicated that threat to any other person.
- Knowingly made a false report of an act of terrorism and communicated it to another.

A violation would be a felony punishable by up to 20 years imprisonment, a fine of not more than \$20,000, or both. The bill specifies that it would not be a defense to a prosecution for making a terrorist threat that the defendant did not have the intent or capability of committing the act of terrorism or that the threat was not made to a person who was a subject or intended victim or target of the act.

Terrorism. The bill would prohibit a person from knowingly committing an act of terrorism. Terrorism would be a felony punishable by imprisonment for life or any term of years, a fine of not more than \$100,000, or both. If death were caused by the terrorist act, however, the bill would require a penalty of imprisonment for life without the opportunity for parole.

Hindering Prosecution of Terrorism. A person would be guilty of "hindering prosecution of terrorism" if he or she knowingly committed an act that "renders criminal assistance" to a person who had committed an act of terrorism. Hindering prosecution of terrorism would be a felony punishable by imprisonment for life or any term of years, a fine of not more than \$100,000, or both. This provision would not apply to conduct for which a person could be punished as if he or she had committed the offense committed by another person as allowed under Section 39 of the Code of Criminal Procedure.

"Renders criminal assistance" would mean that a person, with the intent to prevent, hinder, or delay the discovery or apprehension of, or the filing of a

criminal charge against, another person whom he or she knew or believed had committed a violation of the bill or was being sought by law enforcement officials for committing a violation of the bill, or with the intent to assist a person in profiting or benefiting from committing a violation of the bill, did any of the following:

- Harbored or concealed that other person.
- Warned that other person of impending discovery or apprehension.
- Provided the person with money, transportation, a weapon, a disguise, fake identification documents, or any other means of avoiding discovery or apprehension.
- Prevented or obstructed, by means of force, intimidation, or deception, anyone from performing an act that might aid in the discovery or apprehension of that other person or in the filing of a criminal charge against that other person.
- Suppressed, by any act of concealment, alteration, or destruction, any physical evidence that could aid in the discovery or apprehension of that other person or in the filing of a criminal charge against that other person.
- Aided that other person to protect or expeditiously profit from an advantage derived from the crime.

The bill is tie-barred to House Bill 5495.

House Bill 5495 would amend the Michigan Penal Code (MCL 750.543c) to define “terrorist organization” as an organization that, on the bill’s effective date, had been designated by the U.S. State Department as engaging in or sponsoring an act of terrorism.

The bill also states that it would not prohibit a person from being charged with, convicted of, or sentenced for any other violation of law arising out of the same criminal transaction as the violation of Chapter 83-A (the anti-terrorist act). Further, a prosecuting agency could not prosecute any person or seize any property for conduct presumptively protected by the First Amendment to the U.S. Constitution in a manner that violated any constitutional provision.

Senate Bill 936. Grand juries differ from the more common trial juries that determine the guilt of a defendant. The primary function of a grand jury is to review the evidence of a criminal case and determine

whether or not there exists probable cause to indict a suspect (that is, to charge him or her with a crime). Since grand juries only determine whether probable cause exists, there is no need for the prosecuting attorney to present all of the evidence collected. Often, the prosecuting attorney presents the minimum amount of evidence necessary to secure an indictment.

In Michigan, Chapter VII of the Code of Criminal Procedure governs grand jury proceedings. The code prohibits a person from publishing or making known to any other person any testimony or exhibits obtained or used, or any proceeding conducted, in connection with any grand jury inquiry except as otherwise provided by law. This prohibition does not apply to communications between prosecuting officers for the purposes of presenting evidence before the grand jury, for the purpose of reviewing evidence presented to the grand jury for prospective prosecution, or for any other purpose involving the execution of a public duty.

Senate Bill 936 would amend the code (MCL 767.19f) to also exclude from that prohibition communications between law enforcement officers in cases involving violations of Chapter 83-A of the Michigan Penal Code (terrorism), which would be added by Senate Bill 930.

Further, this provision of law currently applies only to applications and petitions for and orders of immunity, and to any transcript of testimony which may be delivered to a witness in relation to his or her grant of immunity, except that the witness could be privileged to disclose the document, order and transcript to his or her attorney. The bill would specify that the application of this provision would not be limited to the above situations.

Senate Bill 939 would amend the Michigan Penal Code (MCL 750.543r) to prohibit a person from obtaining or possessing a blueprint, evacuation plan, or other diagram or description of a public structure, or from engaging in the surveillance of a public structure, with the intent to commit an offense that was prohibited under Chapter 83-A (terrorism), which would be added by Senate Bill 930. A violation would be a felony punishable by imprisonment for up to 20 years or a fine of not more than \$20,000, or both.

“Public structure” would include both of the following:

- A building, structure, or other facility owned or operated by the federal government, the state of Michigan, or by a political subdivision or any other instrumentality of the state or of a local unit of government.

- A privately owned building, enclosure, or other facility, all or part of which is open to the public.

Senate Bill 942 would amend the Michigan Penal Code (MCL 750.543p) to add a section to Chapter 83-A (terrorism). Michigan law already contains various provisions that criminalize certain activities involving the use of computers. Under the bill, a person could not use the Internet or a telecommunications device or system or other electronic device or system so as to disrupt the functions of the public safety, educational, commercial, or governmental operations within Michigan with the intent to commit an act that would be a felony under Michigan laws. The bill would apply to acts, whether committed within the state or not, that are dangerous to human life and intended to intimidate or coerce a civilian population or to influence or affect the conduct of a government or a unit of government through intimidation or coercion. A violation would be a felony punishable by up to 20 years imprisonment, a fine of not more than \$20,000, or both.

“Computer network”, “computer system”, “Internet”, and “telecommunication device” would mean those terms as defined elsewhere in the penal code. “Electronic device” would mean any instrument, equipment, or device having electrical, digital, magnetic, wireless, optical, electromagnetic, or similar capabilities. “Electronic system” would include, but not be limited to, a computer system or computer network, digital broadcast system, or satellite network.

Senate Bill 946 and House Bill 5520. Senate Bill 946 would amend the sentencing guidelines provision of the Code of Criminal Procedure (MCL 777.31 et. al.) to create offense variable 20 (terrorism) and revise the application of several other offense variables; House Bill 5520 would amend the code (MCL 777.22) to require offense variable 20 to be scored for all crime categories and to add conspiracy or solicitation to commit a homicide to the scoring of offense variables 5 and 6.

Under Senate Bill 946, an “act of terrorism” would mean that term as defined in Section 543b of the Michigan Penal Code (which would be added by Senate Bill 930).

To score offense variable 20, the court would have to determine which of the following applied and assign the number of points attributable to the one with the highest number:

- The offender committed an act of terrorism by using or threatening to use a harmful biological substance, harmful biological device, harmful chemical substance, harmful chemical device, harmful radioactive material, harmful radioactive device, incendiary device, or explosive device (100 points). “Incendiary device” would include gasoline or any other flammable substance, a blowtorch, fire bomb, Molotov cocktail, or other similar device. The other terms are defined in Section 200h of the Michigan Penal Code (MCL 750.200h).

- The offender committed an act of terrorism without using any of the above (50 points).

- The offender supported an act of terrorism (25 points)

- The offender did not commit or support an act of terrorism (0 points).

The bill would add to the scoring of offense variable 1 (aggravated use of a weapon) whether the victim was subjected or exposed to a harmful biological substance or device, harmful chemical substance or device, harmful radioactive material or device, incendiary device, or explosive device (20 points). Offense variable 7 (aggravated physical abuse) would be amended to 1) delete the reference to terrorism; 2) include conduct designed to substantially increase the fear and anxiety a victim suffered during the offense; and 3) count each person who had been placed in danger of injury or loss of life as a victim. Offense variable 19 (threat to security of a penal institution or court or interference with the administration of justice) would be amended to include interference with the rendering of emergency services.

Senate Bill 948. Currently, under the Code of Criminal Procedure, an indictment for murder, first-degree criminal sexual conduct, or a violation of Chapter 33 of the Michigan Penal Code (Explosives, Bombs, and Harmful Devices) that is punishable by imprisonment for life may be found and filed at any time. (That is, there is no statute of limitation on the prosecution of those crimes.) The bill would amend the code (MCL 767.24) to provide for no statute of limitations on violations of the proposed “Michigan Anti-terrorism Act” that were punishable by imprisonment for life.

Senate Bill 949. Under provisions of the Code of Criminal Procedure, a court may require the defendant, as part of the sentence for a conviction of certain offenses, to reimburse the state or a local unit of government for expenses incurred in relation to the incident including, but not limited to, expenses for an emergency response and expenses for prosecuting the crime.

Senate Bill 949 would amend the code (MCL 769.1f) to also require a court to impose those costs on a person who violated, or attempted to violate, the Anti-terrorism Act (Chapter 83-A of the Michigan Penal Code, which would be added by Senate Bill 930). A court would also have to impose costs on a person who violated, or attempted to violate, Sections 327, 327a, and 328 of Chapter 33 of the penal code (explosives, bombs, and harmful devices), and Section 436 of the penal code (poisoning food, water supplies, pharmaceuticals, etc.). Reimbursement would have to be made to the appropriate government entity. "Government entity" would mean the state of Michigan, a local unit of government, or the U.S. government.

Further, the code specifies the expenses for which reimbursement may be ordered. Currently, expenses include salaries or wages of law enforcement personnel involved in the arrest, investigation, report writing, etc.; salaries or wages of fire department and emergency medical service personnel for time spent in responding to and providing fire fighting, rescue, and emergency medical services; the cost of medical supplies lost or expended while providing fire fighting and emergency medical services; and salaries or wages for prosecution personnel for time spent investigating and prosecuting the crime resulting in conviction.

Senate Bill 949 would also allow a court to order reimbursement for the costs associated with extradition, including, but not limited to, transportation costs and the salaries or wages of law enforcement and prosecution personnel for processing the extradition and returning the person to the state.

(Note: House Bill 5512, which has previously been passed by the House and is pending Senate floor action, would place a similar provision within Chapter 83-A, the Anti-terrorism Act, that would be created by Senate Bill 930.)

Senate Bill 995 would amend the Code of Criminal Procedure (777.16z) to specify the following:

- Terrorism without causing a death would be a Class A felony against a person with a maximum term of imprisonment for life.
- Hindering prosecution of terrorism would be a Class A felony against the public order with a maximum term of imprisonment for life.
- Soliciting material support for terrorism or terrorist acts would be a Class B felony against the public safety with a maximum term of imprisonment of 20 years.
- Threat or false report of terrorism would be a Class B felony against the public order with a maximum term of imprisonment of 20 years.
- Use of Internet or telecommunications to commit terrorism would be a Class B felony against the public safety with a maximum term of imprisonment of 20 years.
- Surveillance of public structure with intent to commit terrorism would be a Class B felony against the public safety with a maximum term of imprisonment of 20 years.

The bill is tie-barred to Senate Bills 930, 939, and 942.

Senate Bill 997. Under the Michigan Penal Code, "racketeering" means committing, attempting to commit, conspiring to commit, or aiding or abetting, soliciting, coercing, or intimidating a person to commit, for financial gain, an offense listed in the definition. The bill would amend the code (MCL 750.159g) to include a violation of the proposed "Michigan Anti-terrorism Act" (which would be created by Senate Bill 930) as a predicate offense in the code's definition of racketeering.

### **HOUSE COMMITTEE ACTION:**

The committee adopted several substitute bills and amended other bills in the package. The changes to each bill are as follows:

Senate Bill 930. The committee adopted a substitute bill that split the provisions of the Senate-passed version of Senate Bill 930 with House Bill 5495, tie-barred the two bills to each other, and specified an effective date.

Senate Bills 936, 939, 948, 949, 995, and 997 were amended to specify an effective date.

Senate Bill 942. The committee adopted a substitute which added an effective date, deleted a provision that exempted an entity licensed by the Federal Communications Commission, and expanded the provision to cover acts committed outside of the state.

Senate Bill 946. The committee adopted a substitute that deleted the amendments to Section 22 of the Code of Criminal Procedure and placed them within House Bill 5520.

### ***FISCAL IMPLICATIONS:***

According to the House Fiscal Agency, the fiscal impact of Senate Bills 930, 939, 942, 946 and 995 and House Bills 5520 and 5495 would depend on how they affected prosecutorial charging practices, numbers of convictions, and lengths of time served. If relatively few sentences were affected by the bills, the annual costs to the state correctional system would be commensurately low. However, the bills provide for maximum sentences of from 20 years to life, so cumulative costs under the bills could be substantial.

The HFA reports that Senate Bills 936 and 948 would have no direct fiscal impact on the state or local governments.

With regard to Senate Bill 949, the HFA reports that the bill could offset state or local costs for emergency response and prosecution.

To the extent that Senate Bill 997 increased numbers of convictions and length of time served by convicted offenders, the HFA reports that the bill could increase state or local correctional costs. (2-27-02)

### ***ARGUMENTS:***

#### ***For:***

Senate Bill 930 would create the Michigan Anti-terrorism Act. The bill would narrowly define an “act of terrorism”. In order to apply the act’s provisions, a crime would have to meet several standards. A crime would have to 1) constitute a violent felony (which must meet the level of physical force or harmful biological, chemical, or radioactive substances or devices being used against a person or persons); 2) be dangerous to human life; and, 3) have the element of intimidation or coercion of a civilian population or influence or affect the conduct of a government or unit of government through that intimidation or coercion. It is obvious, therefore, that

even a violent crime such as a murder, armed robbery, or sexual assault would not meet all the criteria. Even a crime involving the placement or detonation of a bomb would not necessarily meet the criteria so as to be charged as a crime of terrorism. It is also reasonable to assume that prosecutors and juries would be judicious in their application of such a criminal charge so as to only include those individuals or organizations targeting a larger population with the intent of bringing down our government, severely crippling the ability of government to function efficiently, or to keep the population in a state of fear and terror.

#### ***Response:***

Not everyone would agree that the bill’s definition of an act of terrorism is crystal clear or as narrowly defined as purported to be. In fact, though the bill is said to be addressing terrorism, such as the forces behind the September 11<sup>th</sup> attacks, it could be applied to environmental groups protesting the demolition of the rainforests, placements of nuclear dumps, and air and water pollution; animal rights activists; activists who have targeted past meetings of the World Trade Organization; labor union activists; and certain militia groups. Where members of those groups generally do not use tactics that include the use of radioactive materials or bio-weapons, their protests have on occasion resulted in some physical violence that could trigger application of Senate Bill 930 and various other provisions that are part of the anti-terrorism package. Couldn’t hate crimes be reclassified as acts of terrorism, or bombings of abortion clinics be prosecuted as an act of terrorism? And what is to protect an individual from an overzealous prosecutor? Juries, too, can be unpredictable; is it wise to place complete trust in a jury’s ability to discern what crime should or shouldn’t be prosecuted as a terrorist act? Closer scrutiny should be given to language that could result in the limitation of free speech or the inadvertent “capturing” of protesters who are not in the same category as true terrorists.

#### ***For:***

Senate Bill 930 and House Bill 5495 would address many of the issues connected with a crime of terrorism, yet would still protect against violations of a person’s constitutional rights. Besides establishing criteria to define an act of terrorism, the bills would also criminalize harboring a terrorist, helping a terrorist to escape, raising material resources, and making a false report of a terrorist threat or act. However, to protect against unfairly “capturing” people who do not know they are renting an apartment to a terrorist, or giving money to a terrorist

group that pretended to be a charitable organization, the House bill would define a terrorist organization as being one that has been designated as such by the federal government (so an individual would not carry the burden of conducting an in-depth investigation into the financial or political activities of a domestic- or foreign-based organization) and Senate Bill 930 would include the elements of knowledge and intent. These are not easy elements for a prosecution to establish. Further, it must be remembered, before a person can be convicted of the charge of committing a terrorist act, the prosecution must still meet the burden of proving these elements and standards beyond a reasonable doubt.

**For:**

Though current state law requires a court to order a defendant convicted of a crime to make full restitution to any victims, a court has the discretion to order reimbursement to municipalities for any costs incurred in relation to the crime, such as prosecution costs and expenses related to the use of emergency services. Senate Bill 949 would make reimbursements to municipalities mandatory for conviction of a terrorist act. Unlike a crime committed by a single individual or a small group of like-minded individuals, a terrorist act is generally committed by persons who are a part of a much larger and often well-funded organization. Even if the actual perpetrator were killed in the commission of the crime, the change in the law, along with the changes contained in House Bill 5513 (which would trigger the legal seizure and forfeiture of assets in relation to crimes of terrorism), could mean that assets belonging to terrorist organizations could be seized and utilized to pay for the destruction caused by their members. Of course, no amount of money could ever replace the lives lost or undo the injuries to persons harmed by a terrorist act. But, seizing the assets of terrorist organizations or requiring monetary restitution and reimbursement to be made could deplete their resources – resources that may otherwise be used to fund additional terrorist acts.

**For:**

Cyber attacks are increasing in frequency and veracity. According to a recent *Washington Post* article (January 28, 2002), there were over 52,600 security breaches and attacks in 2000; a 50 percent increase. Such attacks can wipe out critical files and programs or give access to confidential information about businesses or individuals such as financial information and Social Security numbers. On a more insidious level, cyber attacks could jeopardize the safety and security of air traffic controls, programs

that keep trains from colliding, software programs that monitor and regulate water treatment plants, and so on. The bill would provide a stiff penalty for cyber or telecommunications disruptions and attacks that hopefully will deter a terrorist from even considering such an attack, or that will adequately punish someone who still acts out a terrorist plan.

**For:**

Several of the bills, though short in content, would have significant ramifications. Senate Bill 948 would remove the statute of limitation for acts of terrorism. Therefore, like murder, a person could always be charged with the crime no matter how many years have passed. This is important because it could take several years to gather enough evidence to indict a particular person, or to build a case. Also, it removes the temptation to commit a crime and then “lay low” for the requisite number of years until a statute of limitation expires. Senate Bill 997 would include terrorism as a predicate offense for triggering the state’s racketeering laws. Individuals should not be allowed to financially profit from causing fear and death.

Senate Bill 936 would allow certain grand jury information to be shared with other law enforcement officials. Currently, no information arising from testimony or exhibits – except for certain communication between prosecutors and applications for and grants of immunity – can be shared outside of the grand jury. However, sometimes a witness will disclose to the grand jury that a murder is about to take place or a drug deal is planned. This information, though, cannot be shared with other law enforcement officials, even though it means that a crime could be prevented.

Because of the nature and intent of acts of terrorism, and the destruction and disruption to many lives that such an act could inflict, the bill would create a narrow exception to the secrecy regarding grand jury testimony and allow information relating to a terrorist act to be shared with other law enforcement officials such as prosecutors, police, or the FBI.

**Against:**

Many of the bills would increase penalties for existing crimes or create new penalties for new crimes. Most of these penalties specify ridiculously high monetary fines that have little chance of being collected. Further, most of the penalties require life sentences or near life sentences and may be ordered to be served consecutively to any other sentences for convictions arising from the same criminal event. It

must be noted that the bills create the possibility of abuse from prosecutors using a threat of charging under any or several of these bills to intimidate or coerce a suspect to confess or plead to a lesser charge rather than take his or her chances with a jury on the charge of terrorism.

**Against:**

These bills, and especially Senate Bill 930, are unnecessary since the federal government addressed many of the same issues in the USA Patriot Act enacted last fall.

**Response:**

On the contrary, federal agencies do not always have jurisdiction to investigate or prosecute crimes. There may be some types of domestic terrorism that happen solely within the state's boundaries to only the state's citizens that federal agencies would not be interested in prosecuting, or may not have the resources to tackle. Even if a crime falls within federal jurisdiction, the federal government may not be able to move on the case in as timely a manner as the state could. Further, there is a tradition of dual sovereignty, of parallel laws. Since the 14<sup>th</sup> amendment of the U.S. Constitution gives states the right to protect their citizens, there is no reason why the state should be reticent about enacting laws to adequately protect Michigan residents.

**Against:**

The bills seem to rely primarily on a deterrent effect and so contain penalties that would imprison someone for most, if not all, of his or her life. However, like the Kamikaze pilots of World War II, today's suicide bombers are not deterred by such measures. Therefore, the bills may do little more than pacify a nervous public.

**Against:**

Provisions of Senate Bill 939, such as the one that would make surveillance of a public structure, with an intent to commit a terrorist act, a felony with a harsh punishment, are quite troublesome. How is one to differentiate between an architecture buff who enjoys photographing buildings, or even a certain building, from someone who could be plotting to destroy that building? Could this bill's provisions give rise to increased racial profiling, or citizens reporting anyone considered to be lingering too long at a public building or structure? Though this bill also includes the element of proving "intent", in a day when people are afraid and nerves are on end, it is not inconceivable that a jury's fears could be played upon by an unscrupulous or overly ambitious prosecutor to convince a jury that an innocent love or

fascination with a particular building or buildings was really the beginning of a plot to destroy that structure and anyone in it.

**Response:**

An association representing general contractors responsible for large public construction and renovation projects also has concerns about this bill (the bill also prohibits obtaining or possessing blue prints, evacuation plans, and various diagrams of public buildings – all of which would be in the possession of the association's members as they are used to make bids, estimate costs and construction time frames, etc.). However, an association representative testified that they believe the language in the bill is sufficient to protect against abuses.

**POSITIONS:**

The office of the attorney general supports the bills. (2-26-02)

The Prosecuting Attorneys Association supports the bills. (2-26-02)

The Department of State Police supports House Bill 5495 and Senate Bills 930, 940, 939, and 942. (2-26-02)

The Associated General Contractors of America/Michigan Chapter, Inc. support Senate Bill 939. (2-26-02)

The American Civil Liberties Union (ACLU) opposes House Bill 5495 and Senate Bill 930. (2-26-02)

Analyst: S. Stutzky

■ 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.