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SFA



BILL ANALYSIS

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Senate Bill 151 (Substitute S-1 as reported)
Sponsor: Senator William Van Regenmorter
Committee: Judiciary

Date Completed: 2-15-01

RATIONALE

Under the Michigan Vehicle Code, first-degree fleeing and eluding (which occurs when a flight from police results in another person's death), causing a death by drunk driving, and causing a death by operating a vehicle without a driver's license or with a suspended or revoked license, all are punishable by up to 15 years' imprisonment. Leaving the scene, when a driver knows or has reason to believe that he or she has been involved in an accident resulting in serious or aggravated injury or death, carries a maximum penalty of five years' imprisonment. Although any of these offenses may involve the death of more than one individual, the Code does not specify that an additional charge may be filed for each death caused, or provide for an additional penalty if the violation results in multiple deaths. Some people believe that causing multiple deaths through these types of driving violations should be chargeable as separate crimes and that the offenders should be subject to consecutive prison sentences for each life taken.

CONTENT

The bill would amend the Michigan Vehicle Code to provide that separate charges could be filed, and consecutive sentences could be ordered, for each death that resulted from certain traffic crimes. The bill would take effect on June 1, 2001.

Specifically, a person could be charged with and convicted of any of the following offenses for each death that occurred during the commission of the offense:

- First-degree fleeing and eluding (MCL 257.602a(5)).
- Leaving the scene of an accident when the driver knows or has reason to believe that he or she has been involved in an accident resulting in serious or aggravated injury or death (MCL 257.617).
- Causing a death by operating a vehicle while under the influence of liquor or a controlled substance or while visibly impaired due to the consumption of liquor or a controlled substance

(MCL 257.625(4)).

- Causing a death by operating a vehicle without a driver's license or with a suspended or revoked license (MCL 257.904(4)).

In addition, the court could order that the terms of imprisonment imposed for each death be served consecutively to each other.

Proposed MCL 257.911

ARGUMENTS

(Please note: The arguments contained in this analysis originate from sources outside the Senate Fiscal Agency. The Senate Fiscal Agency neither supports nor opposes legislation.)

Supporting Argument

According to testimony presented to the Senate Judiciary Committee, three teenaged boys on bicycles were hit and killed in November 1999, by a drunk driver who then fled the scene. The man who killed the boys reportedly was a repeat drunk driving offender. Apparently, he was charged with causing a death by drunk driving, pleaded no contest, and was sentenced to 10 to 15 years in prison. Although that penalty is the maximum sentence for the offense charged, his prison time amounts to a little more than three years' imprisonment for each life taken. This penalty is simply too lenient.

Although there is no prohibition in the Vehicle Code against charging a defendant separately for each death caused in a single incident of drunk driving, fleeing and eluding, leaving the scene of an accident, or driving without a valid license, even if multiple charges are filed an offender typically will serve his or her prison terms concurrently. In order to emphasize that each life is valuable and to deter these types of driving violations, the law should provide for separate offenses to be charged and allow a court to order the sentences for those violations to be served consecutively.

Opposing Argument

Even without the bill's specific authorization, multiple charges can already be filed when more than one life is taken in the course of the applicable crimes. As long as the violations are not for lesser included offenses, it is not unusual for a prosecutor to charge a person with multiple violations arising out of the same criminal incident. For instance, if someone shot and killed three people, he or she could be charged with three counts of murder. Just as someone can be charged with multiple counts of murder when taking more than one life, a drunk driver may be charged with multiple counts of causing a death.

Response: A murder conviction is subject to a penalty of life in prison. Since the offenses to which the bill would apply have shorter maximum sentences, the key to imposing appropriate penalties is allowing courts to apply consecutive sentences for multiple deaths caused. In addition, specifically authorizing separate charges and convictions for causing multiple deaths would avoid any ambiguity about the ability to file multiple charges.

Legislative Analyst: P. Affholter

FISCAL IMPACT

The bill would have an indeterminate fiscal impact on State and local government.

According to the 1998 Department of Corrections Annual Statistical Report, a total of 90 people were convicted of leaving the scene of a serious accident, or driving intoxicated causing death. Of the 90 people convicted, 43 received a prison sentence. There are no data to indicate how many of these convictions resulted in the death of one or more persons. There also are no data available on convictions under the other sections referred to in this bill.

Leaving the scene of a serious accident (MCL 257.617) was incorporated into the sentencing guidelines as a Class E felony for which the minimum sentence range is between 0-3 months and 24-38 months, and driving intoxicated causing death (MCL 257.625(4)) was incorporated into the sentencing guidelines as a Class C felony for which the minimum sentencing range is between 0-11 months and 62-114 months. Assuming that 23 offenders a year are sentenced to prison for leaving the scene of a serious accident and 23 are sentenced for driving intoxicated causing death, that they receive the longest allowable minimum sentences for these crimes and serve them consecutively, and that each offense resulted in the death of two people, given that the average annual cost of incarceration is \$22,000, the total cost of incarceration would be \$12.8 million, or double the cost of incarceration for the original charge alone.

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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.