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BILL ANALYSIS

Senate Fiscal Agency

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Senate Bill 542 (Substitute S-1 as passed by the Senate)
Senate Bill 543 (Substitute S-1 as passed by the Senate)
Sponsor: Senator Rudy J. Nichols
Committee: Judiciary

Date Completed: 2-1-88

RATIONALE

Many contend that changes should be made in the law regarding the criminal liability of drivers who flee from or elude an officer who directs them to stop. The issue has received considerable attention in recent years since several fatalities have resulted from accidents stemming from high speed chases in the State. Sometimes when a police officer gives chase to a driver who fails to stop upon the officer's command, an accident results in the injury to or fatality of an innocent bystander or driver. Some people feel that a driver's willful act of fleeing an officer who has given the order to stop is such a potentially life threatening action, that stiffer legal sanctions should be established to deter that activity.

CONTENT

Senate Bills 542 (S-1) and 543 (S-1) would amend the Michigan Vehicle Code and Michigan Penal Code, respectively, to prescribe increased penalties, including imprisonment, fines and license revocation for a person convicted of willfully failing to stop a vehicle at the direction of a police officer. The bills also would change the offense from a misdemeanor to a felony. In addition, Senate Bill 542 (S-1) provides that no police or conservation officer could be required to engage in pursuit of an individual for a civil infraction.

A more detailed description of the bills follows.

The bills would prescribe increased sentences of imprisonment and fines, plus the costs of prosecution as well as license revocation, for persons convicted of willfully failing to stop a vehicle at the visible or audible direction of a police or conservation officer. A person convicted of that offense would be guilty of a felony and would have to be punished by not more than four years' imprisonment, and a fine of not more than \$2,000. That offense is currently a misdemeanor punishable by up to one year's imprisonment and a maximum fine of \$1,000.

Under the bills, a person who had such a conviction within 10 years of a prior conviction would be guilty of a felony, punishable by imprisonment for not less than one year and not more than five years, and by a fine of not more than \$10,000. A driver who caused bodily injury to any person while attempting to flee or elude an officer in violation of the bill, would be guilty of a felony and subject to imprisonment for not more than four years and a fine of not more than \$10,000, together with the costs of prosecution.

In addition, the bills would require the court to order the Secretary of State to revoke from one to four years the operator's or chauffeur's license of a person convicted of willfully failing to stop for an officer. The license would have to be permanently revoked if the person were

convicted of failing to stop for an officer within 10 years of a prior conviction, or convicted of failing to stop for an officer or causing bodily injury to a person while fleeing an officer, within 10 years of a prior conviction of a violation under the bills. Senate Bill 543 (S-1) also provides that, if a prison term were part of the sentence, the license revocation period would begin upon completion of the prison term.

In addition, Senate Bill 543 (S-1) would define "pacing" as the process of positioning an official police vehicle, while maintaining a constant speed at a stable fixed distance, behind another moving vehicle in order to determine its speed. "Pursuit" would mean either of the following:

- An attempt by a police officer in a vehicle clearly and fully identified as an official police vehicle to stop another moving vehicle when its driver was attempting to avoid being stopped by maintaining or increasing his or her speed or by ignoring the officer's attempt.
- The catching up to or closing of the distance between an official police vehicle and another moving motor vehicle when its driver was not aware of the official vehicle.

Senate Bill 542 is tie-barred to Senate Bill 543.

MCL 247.319 and 257.602a (Senate Bill 542)

MCL 750.324, 750.325, and 750.479a (Senate Bill 543)

FISCAL IMPACT

The bills would have an indeterminate impact on State and local government. Enforcement costs are not determinable.

ARGUMENTS

Supporting Argument

The bills would provide a more meaningful penalty for drivers who disobey an officer's direction to stop. The possibility of a felony record, a \$2,000 fine, imprisonment for four years, and a four-year license revocation should be enough to discourage most motorists from fleeing or eluding an officer who directs them to stop. In turn, as the number of high speed chases was lowered, the incidence of resulting accidents would also decline.

Response: The potential deterrent value of increased penalties is questionable. After all, many people who flee presumably do so because they don't want to be caught for another offense. Someone who has robbed a bank, for instance, is not likely to stop because of the penalty for fleeing. Further, it can be argued that the certainty of punishment is a greater deterrent than its severity and, as a result, simply increasing the penalty for fleeing would make little difference.

OVER

S.B. 542 & 543 (2-1-88)

Supporting Argument

By providing that an officer could not be required to pursue individuals for civil infractions, the bill would balance the potential danger of a high speed chase against the severity of the offense for which a driver is being pursued: it simply is not worth endangering lives and safety in order to stop a driver for making an illegal turn, for example. In addition, this provision would ensure that officers were not required to satisfy ticket quotas, which some say are imposed by local law enforcement agencies and which divert the attention of officers from more serious criminal activity. Ticket quotas also force officers to single out one individual for speeding when all of the other drivers are going the same speed and the safest thing to do is keep up with the traffic.

Opposing Argument

The problem of injury and death resulting from high speed chases won't be addressed by merely making the act of fleeing a police officer a more severe offense. The duty of care that is expected of a reasonable police officer also may need to be examined. For instance, the caution that must be exercised by an officer engaged in a high speed chase should not be less than that exercised by an officer in firing his or her weapon. While most officers would not dream of shooting into a crowd while running after a suspected burglar, many nevertheless are willing to drive an equally dangerous vehicle through crowded streets when chasing a person who made an illegal turn or ran a stop sign.

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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.