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BILL ANALYSIS

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Senate Bill 542 (as enrolled)
 Senate Bill 543 (as enrolled)
 Sponsor: Senator Rudy J. Nichols
 Senate Committee: Judiciary
 House Committee: Judiciary

PUBLIC ACT 406 of 1988
PUBLIC ACT 407 of 1988

Date Completed: 1-6-89

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 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 and 543 would amend the Michigan Vehicle Code and Michigan Penal Code, respectively, to prescribe increased penalties, including mandatory imprisonment, as well as fines and license suspension, for a person convicted of willfully failing to stop a vehicle at the direction of an officer. The bills also would change the offense from a misdemeanor to a felony for repeat convictions within five years or if the driver caused serious bodily injury to a person.

A person who was convicted of willfully failing to stop a vehicle at the visible or audible direction of a police or conservation officer would have to be punished by at least 30 days' but not more than four years' imprisonment, and could be fined up to \$1,000 and ordered to pay the costs of prosecution. That offense is currently punishable by up to one year's imprisonment and a maximum fine of \$1,000. The bills also specify that these provisions would not apply unless the officer were in uniform and the vehicle identified as an official police or Department of Natural Resources vehicle. The court could depart from the minimum prison term if it found substantial and compelling reasons to do so and if it imposed community service as part of the sentence.

A person who was convicted within five years of a prior conviction, or who caused serious bodily injury to another while attempting to flee or elude an officer, would be guilty of a felony, punishable by imprisonment for at least one year but not more than four years, and by a maximum fine of \$10,000 plus the costs of prosecution. "Serious bodily injury" would mean serious impairment of a body function or permanent serious disfigurement. For a driver who caused serious bodily injury, the court could depart from the minimum prison term if it found substantial and

compelling reasons to do so and if it imposed community service as part of the sentence.

In addition, the bills would require a court to order the Secretary of State to suspend for one year the operator's or chauffeur's license of a person convicted of willfully failing to stop for an officer. The person would not be eligible for a restricted license during the first six months of the suspension. If imprisonment were part of the sentence, the suspension would have to begin after the prison term was completed.

MCL 247.319 and 257.602a (Senate Bill 542)

MCL 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 threat of mandatory imprisonment, the possibility of a felony record, a fine of up to \$10,000 for a repeat offense in five years or for causing serious bodily injury, and automatic license suspension 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 should 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.

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

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S.B. 542 & 543 (1-6-89)

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.