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BILL ANALYSIS

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Senate Bill 56 (as reported without amendment)
Sponsor: Senator Richard D. Fessler
Committee: Judiciary

Date Completed: 5-1-89

RATIONALE

Michigan law provides for a range of penalties for various acts of arson, including a maximum of 20 years' imprisonment for the willful or malicious burning of any occupied or unoccupied "dwelling house" or its contents, and a maximum of 10 years' imprisonment for the willful or malicious burning of any other real property. Since such intentional acts of arson sometimes result in the death of people, some feel that the action should be punished in the same manner as first degree murder, which carries a mandatory penalty of imprisonment for life with no opportunity for parole.

CONTENT

The bill would amend the Michigan Penal Code to impose a mandatory sentence of life in prison without parole for an act of arson that caused the death of a person. A person who willfully and maliciously destroyed or damaged a building or other real property "by means of an explosive or incendiary device or by fire" thereby causing a death would be subject to that punishment. The sentence could not be suspended, and the person could not be eligible for probation or parole.

("Explosive or incendiary device" would mean dynamite, gunpowder, or other similarly explosive substance; a bomb, grenade, missile, or similar device designed to expand suddenly and release internal energy resulting in an explosion; or an incendiary bomb or grenade, fire bomb, or similar device designed to ignite.)
Proposed MCL 750.73a

BACKGROUND

While it is true that Michigan law provides for a maximum sentence of 20 years' imprisonment for various acts of arson (MCL 750.72-750.75), it also specifies that a murder "which is committed in the perpetration, or attempt to perpetrate arson...is murder in the first degree, and shall be punished by imprisonment for life" (MCL 750.316). Further, the Michigan Supreme Court has held that MCL 750.316 does not violate constitutional guarantees of due process and equal protection or the guarantee against cruel and unusual punishment (People v Hall, 396 Mich. 110).

FISCAL IMPACT

The bill would have an indeterminate impact on State and local units of government. Total costs under this bill would depend on the length of time the convicted individual would be in prison. This factor, in turn, would depend on the age of the individual at the time of conviction. Assuming the range of age of convicted individuals is between 18 and 70 years old, the costs to the State would be between \$161,400 and \$21,000 per individual. This estimate assumes an annual rate of inflation of 4% and does not include other imprisonment costs such as health and administrative expenses.

ARGUMENTS**Supporting Argument**

Arson is a deliberate and heinous act on the part of one or more persons to destroy property and may, in the course of such destruction,

cause the death of another. If arson were committed with such results, it should be considered to have been done with total disregard for human life and should be treated as an act of first degree murder. An arsonist who took the life of another individual as a result of his or her crime should be imprisoned for life without any opportunity for parole.

Opposing Argument

While the bill would require the element of intent to commit arson, it would not require consideration of whether an act of arson was committed with murderous intent. In so doing, the bill would circumvent all the distinctions between the various degrees of murder and manslaughter. Rather than require life in prison, the bill should specify that such an act would constitute murder and leave the decision of degree to the trier of fact.

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