



**House
Legislative
Analysis
Section**

Olds Plaza Building, 10th Floor
Lansing, Michigan 48909
Phone: 517/373-6466

DISARMING A POLICE OFFICER

House Bill 4150 (Substitute H-2)
First Analysis (9-30-93)

Sponsor: Rep. Dianne Byrum
Committee: Judiciary

THE APPARENT PROBLEM:

Police officers risk their lives every day in the protection of the public, and never is this point made more strongly than when an officer loses his or her life in the line of duty. Another situation, however, illustrates the point almost as strongly: when an officer's life is endangered by an assailant's attempt to obtain the officer's weapon. When that attempt is successful, the usual result is that the offender uses the weapon against the officer, sometimes fatally. While there may be disagreement over what, if anything, can be done to prevent violence against police officers, at least one officer's experience has suggested a weakness in the law. The House Judiciary Committee heard testimony from a Lansing police officer who found himself in hand-to-hand combat with an offender who was trying to get the officer's gun. The officer evidently overcame the assailant, but when the case came to court, the officer was chagrined to discover that apparently the only charge that could be brought against the offender was attempted larceny of a handgun over \$100, reportedly a two-year felony. Many have urged stronger penalties for those who disarm police officers.

THE CONTENT OF THE BILL:

The bill would amend the Michigan Penal Code to create special felony penalties for disarming a peace officer. The bill would not prohibit an individual from being charged with or convicted of any violation committed while violating the bill.

Taking a weapon other than a firearm would be a felony punishable by up to four years in prison, a fine of up to \$2,500, or both. Taking a firearm would be a felony punishable by up to ten years in prison, a fine of up to \$5,000, or both.

In either situation, certain criteria would have to be met: The offender would have to know or have reason to believe that the officer was a peace officer who was performing his or her duties, the weapon

would have to be taken without the officer's consent, and the officer would have to be authorized to carry the weapon in the line of duty.

MCL 750.479b

FISCAL IMPLICATIONS:

There is no fiscal information at present. (9-29-93)

ARGUMENTS:

For:

By establishing special penalties for disarming a peace officer, the bill would fill a void in the justice system, and ensure that appropriate punishments are available, especially for an offender who attempts to take an officer's gun. Police officers, who regularly risk their lives to protect the public, would know that there is specific law to protect them, and that offenders who violated that law would be subject to stiff penalties. Those penalties should further serve to deter potential violators; if even one officer's life is saved by the bill, the bill will have served its purpose.

Against:

The bill would hold out a false promise. For one thing, a prosecutor can already bring more serious charges, such as assault with intent to do great bodily harm less than murder, a felony punishable by up to 10 years in prison and \$5,000 maximum fine. More to the point, however, is that the bill would have no deterrent effect. People who go for police officers' guns are not people who will stop to consider whether the crime they are about to commit is a two-year misdemeanor (which is the current penalty for obstructing an officer), a two-year felony (reportedly the offense in the case at hand), or a ten-year felony. If the current penalties for resisting arrest are inadequate, perhaps the bill would do better to address those, rather than create new crimes.

House Bill 4150 (9-30-93)

POSITIONS:

The Michigan Police Legislative Coalition supports the bill. (9-29-93) (The Coalition consists of the Detroit Police Officers Association, the Detroit Lieutenants and Sergeants Association, the Michigan State Police Troopers Association, the Michigan State Police Command Officers Association, and the Police Officers Labor Council.)

The Department of State Police supports the concept of the bill. (9-29-93)