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VA POLICE OFFICER AUTHORITY

House Bill 5160 as introduced
House Bill 5164 as introduced
Sponsor: Rep. Bill Martin

House Bill 5161 (Substitute H-1)
Sponsor: Rep. Robert DeMars

First Analysis (10-28-93)
Committee: Military & Veterans' Affairs

THE APPARENT PROBLEM:

To help maintain order and enforce the law on property of the federal Department of Veterans Affairs (VA), the VA hires and trains police officers, who must undergo six weeks of training, plus have at least six months prior experience in a position (either military or civilian) with arrest powers. However, VA officer powers are limited: they cannot as a rule enforce state law on VA property, nor are they supposed to act as peace officers off VA property, although they have on occasion granted assistance to local police when requested to do so (such as in helping at the scene of an accident). Further, they may not take an uncooperative VA patient undergoing mental health treatment into protective custody when that patient is off VA property.

What VA officers may do has been established under both state and federal law. In 1986, Public Act 297 (enrolled House Bill 5417) amended the Mental Health Code to allow VA officers to act as peace officers with regard to patients on VA property, which provided clear authority for a VA officer to take an unwilling patient into protective custody. The federal Department of Veterans Affairs Codification Act (Public Law 102-83) explicitly requires VA police officers to enforce federal laws on department property; the act also requires VA officers to enforce local traffic regulations on department property, but only to the extent that authority has been extended under applicable state or local law.

VA officials say that the need to pursue drug violations and assaultive crimes as federal cases has operated against the interests of justice. It can take as long as nine or ten months before a U.S. attorney is assigned to the case, and even so there is no guarantee that federal prosecutors will decide

to move forward on it. Indeed one U.S. Attorney reportedly has declared that cases involving less than \$25,000 or less than murder will not be accepted. VA officials have been seeking the authority to enforce state law on VA property so that they may arrest people for drug offenses, assaultive crimes, and traffic violations and turn those people over to the local justice system for disposition.

Also desired by VA officers is clear authority to assist local law enforcement officers when requested to do so, and clear authority to take VA mental health patients into protective custody when found off VA property. Legislation to at least partially accommodate VA concerns has been proposed.

THE CONTENT OF THE BILLS:

House Bill 5161 would amend the Mental Health Code (MCL 330.1400 et al.) to eliminate the restriction that a VA officer may take a patient into protective custody only on VA hospital grounds, and instead allow a VA criminal investigator or police officer to, upon receiving notice from the hospital director, go off hospital property to take a patient into protective custody and return the patient to the hospital (unless contrary directions are provided by the hospital's director). The bill also would amend a section that allows a peace officer to take into protective custody a person whose behavior causes the officer to believe that the individual is a "person requiring treatment" under the code (which is the standard for involuntary commitment). Under the bill, VA criminal investigators or police officers could exercise the authority of a peace officer under this section if the person in question was on VA property or on a public right-of-way traversing or immediately contiguous to VA property.

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House Bill 5164 would amend the Code of Criminal Procedure (MCL 764.15g) to permit a federal Department of Veterans Affairs' criminal investigator or police officer to arrest a person under the same circumstances that a peace officer may make an arrest, if all of the following applied:

--the VA investigator or officer was on duty.

--the VA investigator or officer received a request to assist a peace officer from either a peace officer or a police dispatcher.

--the VA investigator or officer had received training equivalent to that provided an officer of a local police agency under the Michigan Law Enforcement Officers Training Council Act.

House Bill 5160 would amend the Michigan Law Enforcement Officers Training Council Act (MCL 28.609a) to exempt federal Department of Veterans Affairs' police officers and criminal investigators from the requirements of the act while they are assisting law enforcement officers in making arrests, as provided in House Bill 5164. House Bill 5160 is tie-barred to House Bill 5164.

FISCAL IMPLICATIONS:

There is no fiscal information at present. (10-26-93)

ARGUMENTS:

For:

The bills would give VA officers clear powers to take VA mental health patients into protective custody, wherever they might be found, and to provide assistance to local police upon their request. Two main benefits would accrue: local police would not have to be called to assist when a VA patient was found off VA property, and local police could receive needed assistance from VA officers in a variety of circumstances without the matter being clouded by questions over whether VA officers were exceeding their legal authority. The bills would operate to the advantage of both VA and local officers, enabling all to better perform their duties.

Against:

The bills would fail to do at least one thing strongly desired by VA officers: provide the ability to enforce state laws on VA property, so that VA officers may make arrests for a wide range of crimes that otherwise might go unprosecuted under

federal priorities. By being able to make arrests for relatively minor drug offenses, assaultive crimes, and traffic violations, and then turn the offenders over to local authorities, VA officers could see to it that order was maintained on VA property and ensure that significant criminal behavior was not overlooked by the justice system. The bills should provide such authority.

Response:

Such authority would carry the potential to significantly increase burdens for local courts and prosecutors in jurisdictions that contained VA facilities.

Against:

Although the exemption to Michigan Law Enforcement Training Council requirements would be constructed rather narrowly, the state has an interest in ensuring that anyone who acts as a peace officer in whatever situation has received proper training. House Bill 5160 therefore should contain some sort of provision for the training council to review and pass on the credentials of VA officers who act as peace officers.

POSITIONS:

The VA Medical Center of Battle Creek supports the bills, but would prefer that they in addition provide authority for VA officers to enforce Michigan law on VA property. (10-27-93)

The Department of State Police supports the concept of the bills, but is continuing to review them. (10-27-93)

The Michigan Law Enforcement Officers Training Council supports the concept of the bills, but is reviewing the details, and has no formal position at this time. (10-27-93)