



**Senate Fiscal Agency**  
**P. O. Box 30036**  
**Lansing, Michigan 48909-7536**

**BILL ANALYSIS**



**Telephone: (517) 373-5383**  
**Fax: (517) 373-1986**

Senate Bill 378 (as enrolled)  
 Sponsor: Senator William Van Regenmorter  
 Senate Committee: Judiciary  
 House Committee: Judiciary and Civil Rights

**PUBLIC ACT 586 of 1996**

Date Completed: 1-22-97

**RATIONALE**

Under the Michigan Penal Code and the Michigan Vehicle Code, it is a misdemeanor for the driver of a motor vehicle willfully to fail to obey a police or conservation officer who, acting in the lawful performance of his or her duty, signals visually or audibly by hand, voice, emergency light, or siren directing the driver to stop the vehicle. The misdemeanor is punishable by imprisonment for not less than 30 days or more than one year, a maximum fine of \$1,000, and the costs of prosecution. The court may depart from the minimum sentence, if it finds substantial and compelling reasons and imposes a community service requirement. The offense is a felony if the driver has a prior conviction of fleeing and eluding within the previous five years or if the driver, while attempting to flee or elude, causes serious bodily injury to a person. The felony is punishable by imprisonment for not less than one year or more than four years, a maximum fine of \$10,000, and the costs of prosecution. The court may depart from the minimum sentence for causing bodily injury, but not for a previous offense, if it finds substantial and compelling reasons and imposes a community service requirement. Some people believe that, since fleeing and eluding is an inherently dangerous crime both to the public and to police officers, the penalties for that offense, particularly for the misdemeanor violation, are too lenient.

**CONTENT**

**The bill amends the Michigan Penal Code to replace the current misdemeanor and felony penalties for fleeing and eluding a police or conservation officer with four degrees of the offense, each of which will be a felony. The bill specifies the circumstances that will constitute each degree of fleeing and eluding, and the**

**criminal penalties and license sanctions that will apply to each offense.**

The bill was tie-barred to House Bill 4534 (Public Act 587 of 1996), which makes similar fleeing and eluding amendments to the Michigan Vehicle Code.

The bill will take effect on June 1, 1997.

**Violations and Criminal Penalties**

The bill deletes the current penalty provisions for fleeing and eluding a police or conservation officer and, instead, specifies that the offense will be fourth-degree fleeing and eluding, punishable by up to two years' imprisonment, a maximum fine of \$500, or both. A violation will be third-degree fleeing and eluding, punishable by up to five years' imprisonment, a maximum fine of \$1,000, or both, if one or more of the following circumstances apply:

- The violation results in a collision or accident.
- A portion of the violation occurred in an area in which the speed limit was 35 miles an hour or less, whether that limit is posted or imposed as a matter of law.
- The driver has a prior conviction for a violation or attempted violation of fourth-degree fleeing and eluding or fleeing and eluding under a current or former Michigan law prohibiting substantially similar conduct.

A violation will be second-degree fleeing and eluding, punishable by up to 10 years' imprisonment, a maximum fine of \$5,000, or both, if one or more of the following circumstances apply:

- The violation results in "serious injury" to a person.
- The driver has one or more prior convictions for a violation or attempted violation of first-, second-, or third-degree fleeing and eluding or fleeing and eluding under a current or former Michigan law prohibiting substantially similar conduct.
- The driver has any combination of two or more prior convictions for a violation or attempted violation of fourth-degree fleeing and eluding or fleeing and eluding under a current or former Michigan law prohibiting substantially similar conduct.

A violation will be first-degree fleeing and eluding, punishable by up to 15 years' imprisonment, a maximum fine of \$10,000, or both, if it results in the death of another individual.

The bill defines "serious injury" as a physical injury that is not necessarily permanent, but that constitutes serious bodily disfigurement or that seriously impairs the functioning of a body organ or limb. Serious injury includes, but is not limited to, one or more of the following:

- Loss of a limb or of use of a limb.
- Loss of a hand, foot, finger, or thumb or of its use.
- Loss of an eye or ear or of its use.
- Loss or substantial impairment of a bodily function.
- Serious visible disfigurement.
- A comatose state that lasts longer than three days.
- Measurable brain damage or mental impairment.
- A skull fracture or other serious bone fracture.
- Subdural hemorrhage or hematoma.

The bill specifies that a conviction of first-, second-, third-, or fourth-degree fleeing and eluding does not prohibit a conviction and sentence under any other applicable provision for conduct arising out of the same transaction. A conviction under the bill, however, does prohibit a conviction under a section of the Michigan Vehicle Code that provides for the fleeing and eluding offenses (MCL 257.602a), for conduct arising out of the same transaction.

#### License Sanctions

Currently, as part of the sentence for a misdemeanor or felony conviction of fleeing and eluding, the court must order the Secretary of

State to suspend the defendant's driver's license for one year. The person is not eligible to receive a restricted license during the first six months of that suspension and, if a term of imprisonment is imposed, the suspension must begin after completion of the term of imprisonment. Under the bill, these suspension provisions will apply to a person convicted of third- or fourth-degree fleeing and eluding. As part of a sentence imposed for first- or second-degree fleeing and eluding, the bill requires the court to order the Secretary of State to revoke the defendant's driver's license.

MCL 750.479a

### **ARGUMENTS**

*(Please note: The arguments contained in this analysis originate from sources outside the Senate Fiscal Agency. The Senate Fiscal Agency neither supports nor opposes legislation.)*

#### **Supporting Argument**

Senate Bill 378, along with House Bill 4534, is necessary to ensure effective and efficient enforcement of Michigan's fleeing and eluding laws. Too many drivers attempt to flee when signaled by police officers to stop their vehicle. Many of these drivers already are driving dangerously when signaled to pull over, and most drive dangerously in their attempt to evade officers of the law. There is a great need to change the attitude that it is okay to flee from the police. The current penalties for this offense are too weak and it should be stressed, through stricter penalties, that running from a law enforcement officer who signals a driver to stop is dangerous and a serious violation of the law.

Legislative Analyst: P. Affholter  
S. Margules

### **FISCAL IMPACT**

The bill will have an indeterminate, yet likely minimal fiscal impact on the Department of Corrections (DOC). Potential cost increases may result from the increased penalties associated with fourth-, third-, second, and first-degree fleeing and eluding.

There are no data presently available on the number of convictions for the current misdemeanor offense of fleeing and eluding. To the extent that the new felony provisions increase prison commitments, costs may increase, although the new felony also allows for probation and/or jail.

According to annual commitment data collected by the DOC for the current felony provisions of fleeing and eluding under both the Vehicle Code and the Penal Code (which require either a prior conviction or serious injury), there were a total of 37 convictions in 1995, 20 (54%) receiving a prison sentence. The average minimum sentence for these convictions was 1.7 years. Given that the new third- and second-degree fleeing and eluding are somewhat similar to the current felony provisions, only with longer maximum sentence options, and that judges currently are not sentencing near the existing four-year maximum, it is anticipated that the new provisions will have only a minimal effect on sentence lengths, and even less on the number of increased commitments. The new first-degree fleeing and eluding provision, with a 15-year maximum penalty for causing death while fleeing and eluding, may increase average sentence lengths for those convicted under this provision. However, it is also possible that currently, those offenders who cause a death while fleeing and eluding, are admitted to the Department under a separate statute, such as manslaughter with a motor vehicle, which also carries a maximum penalty of 15 years.

Fiscal Analyst: M. Hansen

A9596\S378EA

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.