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## BILL ANALYSIS



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Senate Bill 378  
Sponsor: Senator William Van Regenmorter  
Committee: Judiciary

Date Completed: 5-2-95

**SUMMARY OF SENATE BILL 378 as introduced 3-7-95:**

The bill would amend 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 would be a felony. The bill specifies the circumstances that would constitute each degree of fleeing and eluding, and the criminal penalties and license sanctions that would apply to each offense. The bill is tie-barred to a bill that has not yet been introduced (request no. 03195'95 a).

Violations and Criminal Penalties

Under the Code, it is a misdemeanor for a 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, and, in addition, a maximum fine of \$1,000 and/or the costs of prosecution may be assessed. 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, and a maximum fine of \$10,000, together with 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.

The bill, instead, specifies that the offense would be fourth-degree fleeing and eluding, punishable by up to two years' imprisonment, a maximum fine of \$500, or both. A violation would 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 applied:

- The violation resulted 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 was posted or imposed as a matter of law.
- The driver had 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 would 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 applied:

- The violation resulted in "serious injury" to a person.
- The driver had 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 had 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 would be first-degree fleeing and eluding, punishable by up to 15 years' imprisonment, a maximum fine of \$10,000, or both, if it resulted in the death of another individual.

"Serious injury" would mean a physical injury that was not necessarily permanent, but that constituted serious bodily disfigurement or that seriously impaired the functioning of a body organ or limb. Serious injury would include, but would not be 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 lasted 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 would not prohibit a conviction and sentence under any other applicable law for conduct arising out of the same incident, except under a section of the Michigan Vehicle Code that is identical to the Penal Code's current misdemeanor and felony provisions for fleeing and eluding (MCL 257.602a).

#### 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 would 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 would require the court to order the Secretary of State to revoke the defendant's driver's license.

MCL 750.479a

Legislative Analyst: P. Affholter

## **FISCAL IMPACT**

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

According to data provided by the DOC, in 1992 and 1993 there were a total of 44 convictions for violations of the existing fleeing and eluding statute, 20 receiving a prison sentence. Only five of the 20 prison commitments, however, were admitted to the DOC under the fleeing and eluding statute, possibly indicating that convictions involving other (likely more serious) violations may have been admitted to the Department under the more severe statute. (In practice, individuals are admitted under only one statute, even if they are convicted of multiple offenses.) For example, a violation for fleeing and eluding involving injury or death may have been counted as a commitment under negligent homicide, rather than fleeing and eluding. The increased costs of this bill, then, would result from the increased lengths of sentences imposed over current practices. Given the relatively few annual convictions, even if sentences were increased, on average by three years, total costs would increase at most by approximately \$225,000.

Fiscal Analyst: M. Hansen

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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.