



Senate Fiscal Agency
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BILL



ANALYSIS

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House Bill 4483 (as reported without amendment)
Sponsor: Representative Nick Ciaramitaro House
Committee: Judiciary and Civil Rights Senate
Committee: Judiciary

Date Completed: 2-26-96

RATIONALE

Despite an apparently growing public awareness about domestic violence and its consequences for family members and society as a whole, domestic assaults continue. Reportedly, over 3 million women nationwide annually are physically attacked by their husbands or partners and, on the average, about four women are killed per day. Michigan's domestic violence figures are comparable. In 1985, according to the Department of State Police, there were over 16,000 victims of domestic violence incidents in Michigan; by 1990, that figure was over 25,000, and in 1992 it was nearly 30,000. While it is unclear to what degree these figures may reflect an increase in reporting, rather than an increase in the actual rate of violence, it is apparent that domestic violence remains a serious problem in Michigan.

To help combat the problem of domestic violence, the Code of Criminal Procedure allows a police officer to arrest a person without a warrant if the officer has reasonable cause to believe that the person violated the Michigan Penal Code's simple or aggravated assault provisions and that the person has a child in common with the victim, resides or has resided in the same household as the victim, or is a current or former spouse of the victim. Apparently, however, some city and township attorneys are reluctant to prosecute these cases if the basis of the arrest is a violation of a local ordinance, because the statutory warrantless arrest authority applies specifically to violations of the Penal Code. Some people believe that, since enforcing domestic assault laws strongly and consistently is essential in fighting the rise of domestic violence, violations of local domestic assault ordinances should be included in the Code of Criminal Procedure's warrantless arrest authority.

CONTENT

The bill would amend the Code of Criminal Procedure to extend a peace officer's authority to make an arrest without a warrant for a domestic assault to include a violation of a local ordinance substantially corresponding to the State law violations.

Currently, an officer may arrest a person for simple assault (MCL 750.81) or aggravated assault (MCL 750.81a), regardless of whether the officer has a warrant or whether the violation was committed in his or her presence, if the officer has reasonable cause to believe that the violation occurred or is occurring and that the person has had a child in common with the victim, resides or has resided in the same household as the victim, or is a spouse or former spouse of the victim.

MCL 764.15a

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

Many perpetrators of domestic violence fail to take responsibility for their actions and instead blame the victim. To the degree that society fails to hold these people accountable for their actions, it reinforces this attitude and decreases the chances that an offender will change his or her behavior. Domestic violence is not a private matter, and legal intervention can effectively convey this message. To this end, legislation has been enacted in recent years to strengthen law enforcement's response capabilities in matters involving domestic violence. The current law is not clear, however, on whether a warrantless arrest is

allowed for domestic assault in violation of a local ordinance as opposed to a violation of the Michigan Penal Code. By specifically allowing arrest without a warrant for domestic assault violations under local ordinances, the bill would enhance efforts to arrest and prosecute batterers and to protect victims.

Legislative Analyst: P. Affholter

FISCAL IMPACT

The bill would have an indeterminate, yet likely minimal fiscal impact on State and local government.

To the extent that expanding the authority of warrantless arrests for domestic assaults to include a violation of a local ordinance increased the number of prosecutions and convictions for domestic assault, costs for arresting, prosecuting, and sanctioning offenders would increase. Since peace officers currently have authority for warrantless arrests for violations of State statute, it is difficult to project the increased number of arrests that could occur by expanding that authority to violations of a local ordinance. As background, in 1994, there were a total of 48 felony convictions of domestic assault, two receiving a prison sentence, 33 receiving probation, and 13 receiving a jail sentence. Simple assault is a misdemeanor, and there are no aggregated data collected for misdemeanor offenses.

Fiscal Analyst: M. Hansen
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