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TERRORIST DEVICES

Senate Bill 443 (Substitute H-2)
Sponsor: Sen. Gary Peters

Senate Bill 997 (Substitute H-2)
Sponsor: Sen. Diane Byrum

Senate Committee: Judiciary
House Committee: Judiciary
First Analysis (5-19-98)

THE APPARENT PROBLEM:

In the wake of the Oklahoma City federal building bombing -- as well as an incident in which police in Lansing stopped a van driven by a Battle Creek man for a traffic violation only to discover weapons and a bomb reportedly intended to be used to kill someone in Lansing -- the legislature acted on a package of House and Senate bills (House Bill 4289 and Senate Bills 97, 443, 997, and 1011) to revise the Michigan Penal Code's provisions on crimes involving explosives and bombs and to amend the Department of Corrections Act to prohibit parole for prisoners sentenced to life imprisonment for certain of these crimes.

House Bill 4289 and Senate Bill 97, both of which have passed the House and Senate, would revise the penal code's chapter dealing with bombs and explosives, including establishing graduated penalties for some violations based on the damage or severity of injuries caused by the crime. (For more detailed information, see the House Legislative Analysis Section analysis of Senate Bill 97 dated 12-10-98 and the Senate Fiscal Agency Floor Analysis of House Bill 4289 dated 3-9-98.) Senate Bill 443 would address the issue of devices used to release chemical, biological, or radioactive materials and Senate Bill 997 would prohibit parole for crimes in the "explosives" chapter of the penal code that resulted in serious impairment of a body function.

THE CONTENT OF THE BILLS:

Senate Bill 443 would amend Chapter 33 of the Michigan Penal Code (proposed MCL 750.220h et al.), which deals with bombs and explosives, to add to the list of crimes in this chapter of the code certain crimes involving harmful biological, chemical, or radioactive substances, materials, or devices (with graduated penalties similar to those proposed in House

Bill 4289 and Senate Bill 97). The bill also would make it a separate crime -- and require an additional, concurrent 20 year's imprisonment -- if the crime involved a "vulnerable target" (a child or day care center, health care facility or agency, building or structure open to the public, place of worship, school, college, or university) and resulted in death or serious impairment of a body function.

Biological, chemical, radioactive devices. The bill would prohibit the manufacture, delivery, possession, transport, placement, use, or release of harmful biological, chemical, or radioactive substances, materials, or devices.

Someone who violated this prohibition would be guilty of a felony punishable by imprisonment for up to 15 years, a fine of up to \$10,000 or both. If the violation resulted in property damage, the penalty would be imprisonment for up to 20 years, a fine of up to \$15,000, or both. If it resulted in personal injury to another person (other than serious impairment of a body function or death), the penalty would be imprisonment for up to 25 years, a fine of up to \$20,000, or both. If the violation resulted in serious impairment of a body function to another individual, the penalty would be imprisonment for life or any term of years, a fine of up to \$25,000, or both. And if the violation resulted in death to another individual, the penalty would be life imprisonment without parole and a possible fine of up to \$40,000.

Chemical irritants, smoke, imitation devices. The bill also would prohibit the manufacture, delivery, possession, transport, placement, use, or release for an unlawful purpose (which would include, but not be limited to, having the intent to "frighten, terrorize, intimidate, threaten, harass, injure, or kill any person" or to "damage or destroy any real or personal property without the permission of the property owner or the

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appropriate governmental authority") a chemical irritant or device, a smoke device, or an imitation harmful substance or device.

A person who violated this prohibition would be guilty of a misdemeanor punishable by imprisonment for up to one year, a fine of up to \$1,000, or both. If the violation resulted in property damage, the penalty would be imprisonment for up to four years, a fine of up to \$5,000, or both. If the violation resulted in personal injury to another individual (other than serious impairment of a body function or death), the penalty would be imprisonment for up to 10 years, a fine of up to \$10,000, or both. If serious impairment of a body function to another individual resulted, the penalty would be imprisonment for up to 25 years, a fine of up to \$25,000, or both. If the death of another individual resulted from the violation, the penalty would be imprisonment for life or any term of years, a fine of up to \$40,000, or both.

Exemptions. The bill's prohibitions and penalties for violations would not apply to a member of the military acting under a lawful order or while engaged in a lawful military activity; a law enforcement officer enforcing federal or Michigan laws or while engaged in a lawful law enforcement activity; a person acting in self-defense or the lawful defense of another person; or, unless acting with an unlawful purpose, a person acting within the scope of his or her employment under a federal or Michigan permit or license to manufacture, deliver, possess, transport, place, classify, label, use, or release a substance or device.

Vulnerable targets. If a person violated Chapter 33 of the Michigan Penal Code and the violation was committed in or directed at a "vulnerable target" -- defined in the bill to include a child or day care center, a health care facility or agency, a building or structure open to the general public, a place of religious worship (including a church, synagogue, or mosque), a school (public, private, denominational, or parochial) offering developmental kindergarten, kindergarten, or any grade 1 through 12, or an institution of higher education -- and resulted in serious impairment of a body function of another individual, the violator would be guilty of a separate felony and would be punished by imprisonment for up to 20 years. The term of imprisonment imposed under this section of the bill would be served concurrently to the term of imprisonment for the underlying violation.

Senate Bill 997 would amend the Department of Corrections Act (MCL 791.234) to prohibit parole for prisoners under a life sentence for a violation of Chapter 33 of the Michigan Penal Code that resulted in serious impairment of a body function. (House Bill 4289 and Senate Bill 97 would impose life imprisonment for life "or any term of years," a fine, or both, for certain crimes that resulted in serious impairment of a body function of another, as well as mandatory life imprisonment if the crime resulted in the death of another.)

FISCAL IMPLICATIONS:

Fiscal information is not available.

ARGUMENTS:

For:

The bills would complete a four-bill package that would comprehensively revise and update the chapter of the penal code dealing with terrorist crimes involving bombs and other explosive devices. As the Oklahoma City bombing showed, and as the recent Lansing incident in which a man was apprehended manufacturing the deadly anthrax bacterium in his basement, it also has become increasingly necessary to address the issue of biological, chemical, and radioactive terrorist devices. Senate Bill 443 would do this, as well as penalizing the use of possibly fake devices with the intent to terrorize the public, and add an additional penalty if the threat was directed at "vulnerable targets" -- children, religious worshippers, students, and the general public.

POSITIONS:

There are no positions on the bills.

Analyst: S. Ekstrom

■ This analysis was prepared by nonpartisan House staff for use by House members in their deliberations, and does not constitute an official statement of legislative intent.