
Senate Fiscal Agency
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SFA**BILL ANALYSIS**

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Senate Bill 443 (Substitute S-5 as reported)
Sponsor: Senator Gary Peters
Committee: Judiciary

CONTENT

The bill would amend Chapter 33 of the Michigan Penal Code, which deals with bombs and explosives, to prescribe penalties for additional offenses relating to other types of harmful devices (e.g., chemical, biological, and radioactive substances and devices); and require an additional penalty if a violation of Chapter 33 involved a “vulnerable target” and resulted in death or serious injury.

The bill would prohibit the manufacture, delivery, possession, transport, placement, use, or release of any of the following for an unlawful purpose: a harmful biological substance or device; a harmful chemical substance or device; or a harmful radioactive material or device. A violation would be a felony, punishable by up to 15 years’ imprisonment, a maximum fine of \$10,000, or both. If the violation resulted in property damage, the penalty would be up to 20 years and/or \$15,000; if the violation resulted in personal injury to another individual, the penalty would be up to 25 years and/or \$20,000; and, 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 and/or a maximum fine of \$25,000. If the violation resulted in the death of another individual, the penalty would be a mandatory sentence of imprisonment for life without possibility of parole, and the offender could be fined up to \$40,000.

The bill also would prohibit the manufacture, delivery, possession, transport, placement, use, or release of any of the following for an unlawful purpose: a chemical irritant or chemical irritant device; a smoke device; or an imitation harmful substance or device. A violation would be a misdemeanor, punishable by up to one year’s imprisonment, a maximum fine of \$1,000, or both. If the violation resulted in property damage, it would be a felony punishable by up to four years’ imprisonment and/or a maximum fine of \$5,000; if the violation resulted in personal injury to another individual, it would be punishable by up to 10 years and/or \$10,000; if the violation resulted in serious impairment of a body function to another individual, it would be punishable by up to 25 years and/or \$25,000; and, if the violation resulted in the death of another individual, it would be punishable by imprisonment for life or any term of years and/or a maximum fine of \$40,000.

The bill 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 the laws of the United States or of Michigan or while engaged in a lawful law enforcement activity; a person engaged 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 rule or a permit or license of the United States or of Michigan.

The bill specifies that if a person violated a current or proposed provision of Chapter 33, and if the violation were committed in or directed at a “vulnerable target” and resulted in the death of another individual or in serious impairment of a body function of another individual, the violation would be an additional felony and the offender would have to be punished by imprisonment for not more than 20

years. The sentence would have to be served consecutively to a term of imprisonment for the underlying offense. "Vulnerable target" would mean a child care center or day care center; a health care facility or agency; a building or structure open to the general public; a church, synagogue, mosque, or other place of religious worship; a public, private, denominational, or parochial school offering developmental kindergarten or any grade K through 12; or an institution of higher education.

The bill is tie-barred to Senate Bill 1011, which would amend the Department of Corrections law to exclude from the law's parole provisions persons convicted of a violation of Senate Bill 443 that would require imprisonment for life without eligibility for parole.

Proposed MCL 750.200h et al.

Legislative Analyst: P. Affholter

FISCAL IMPACT

To the extent that the bill would enact new crimes for which there are currently no data available to indicate how many people would be convicted or the minimum sentence that judges would impose, the fiscal impact of the bill is indeterminate. The bill would prescribe both misdemeanor and felony punishments and/or fines, thereby having an impact on both State and local government in terms of additional costs of incarceration or additional fine revenue to the extent that people would be convicted of these new crimes.

Date Completed: 3-23-98

Fiscal Analyst: K. Firestone

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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.