
Senate Fiscal Agency
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SFA**BILL ANALYSIS**

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House Bill 4355 (Substitute H-2 as passed by the House)
House Bill 4356 (Substitute H-3 as passed by the House)
Sponsor: Representative Jim Howell (House Bill 4355)
Representative Jennifer Faunce (House Bill 4356)
House Committee: Criminal Law and Corrections
Senate Committee: Judiciary

Date Completed: 5-18-99

CONTENT

House Bills 4355 (H-2) and 4356 (H-3) would amend the Code of Criminal Procedure and the Michigan Penal Code, respectively, to revise the elements of first- and second-degree home invasion, create the felony of third-degree home invasion, and include third-degree home invasion in the Code of Criminal Procedure's sentencing guidelines provisions.

The bills would take effect on October 1, 1999. House Bill 4355 (H-2) is tie-barred to House Bill 4356.

House Bill 4355 (H-2)

The bill would add the offense of third-degree home invasion, as proposed by House Bill 4356, to the sentencing guidelines provisions. Third-degree home invasion would be categorized as a Class E felony against a person, with a statutory maximum penalty of five years' imprisonment.

House Bill 4356 (H-3)

First- and Second-Degree Home Invasion

Currently, first- and second-degree home invasion occur if a person breaks and enters a dwelling, or enters a dwelling without permission, with intent to commit a felony or a larceny in the dwelling. The offense is first-degree home invasion if, at any time while the offender is entering, present in, or exiting from the dwelling, either he or she is armed with a dangerous weapon or another person is lawfully present in the dwelling. First-degree home invasion is a felony, punishable by up to 20 years' imprisonment, a maximum fine of \$5,000, or both. Second-degree home invasion is a felony, punishable by up to 15 years' imprisonment, a maximum fine of \$3,000, or both.

Under the bill, first- and second-degree home invasion would be breaking and entering a dwelling, or entering a dwelling without permission, with intent to commit a felony, larceny, or assault in the dwelling, or breaking and entering a dwelling, or entering a dwelling without permission, and committing a felony, larceny, or assault at any time while the offender was entering, present in, or exiting the dwelling.

The bill would maintain the penalties for the offenses and the distinction between first- and second-degree home invasion (i.e., possession of a dangerous weapon and/or the lawful presence of another person, for a first-degree offense).

Third-Degree Home Invasion

Any of the following would constitute third-degree home invasion:

- Breaking and entering a dwelling, or entering a dwelling without permission, with intent to commit a misdemeanor in the dwelling.
- Breaking and entering a dwelling, or entering a dwelling without permission, and committing a misdemeanor at any time while the offender was entering, present in, or exiting from the dwelling.
- Breaking and entering a dwelling, or entering a dwelling without permission and, at any time while the offender was entering, present in, or exiting from the dwelling, violating any of the following that was ordered to protect a named person or persons: a term or condition of probation, parole, or a personal protection order, or a condition of bond, bail, or pretrial release.

Third-degree home invasion would be a felony, punishable by up to five years' imprisonment, a maximum fine of \$2,000, or both.

MCL 777.16f (H.B. 4355)
750.110a (H.B. 4356)

Legislative Analyst: P. Affholter

FISCAL IMPACT

House bill 4355 (H-2) and 4356 (H-3) would have an indeterminate fiscal impact on State and local government, yet would potentially increase costs for incarceration or receipt of fine revenue.

The new crime of third-degree home invasion would use the "E" sentencing guideline grid in order to determine the minimum sentence range. Minimum sentences on the "E" grid vary from 0-3 months to 24-38 months.

There are no available data that indicate how many people could be convicted of third-degree home invasion. However, assuming that 10 offenders a year would be convicted of this crime and serve a minimum sentence in a State facility of 18 months, the average annual cost of incarceration would be \$330,000 in the long run.

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.