



**House
Legislative
Analysis
Section**

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**EXPLOSIVES: "VULNERABLE
TARGET"**

**Senate Bill 940 with committee
amendment
First Analysis (2-27-02)**

**Sponsor: Sen. Walter H. North
House Committee: Criminal Justice
Senate Committee: Judiciary**

THE APPARENT PROBLEM:

The events of September 11, when terrorists destroyed the twin towers of the World Trade Center in New York City and attacked the Pentagon, have focused attention on the vulnerability of buildings where large numbers of people gather. Michigan law currently provides for enhanced penalties for crimes committed in or directed at certain facilities, such as day care centers, public and private schools, places of worship, and colleges and universities. However, some people believe that the law would not necessarily include attacks directed at facilities that could be particularly attractive to terrorists, such as football or baseball stadiums, train or bus stations, tunnels, airports, and power plants.

THE CONTENT OF THE BILL:

The penal code makes it a crime to manufacture, deliver, possess, transport, place, use, or release a variety of explosive materials; biological, chemical, or radioactive devices; and chemical irritants or devices, smoke devices, or an imitation harmful substance or device. However, if the violation is committed in or directed at a "vulnerable target" (child or day care center; health care facility or agency; building or structure open to the general public; place of religious worship; public or private school offering any grades K-12; or institution of higher learning) and the violation results in serious impairment of a body function of another individual, the violator is guilty of a separate felony punishable by imprisonment for up to twenty years. This term of imprisonment is served concurrently to the term of imprisonment for the underlying violation.

Senate Bill 940 would amend the code to add the following to the list of "vulnerable targets":

- a stadium;

- a transportation structure or facility open to the public, including, but not limited to, a bridge, a tunnel, a public highway, or a railroad;
- an airport [as defined in the Aeronautics Code of the State of Michigan (MCL 259.9)];
- port facilities [as defined in the Hertel-Law-T. Stopczynski Port Authority Act (MCL 120.102)]; and,
- a public services provider (defined as any of the following services providers: a natural gas company subject to the jurisdiction of the federal Energy Regulatory Commission; an electric, steam, gas, telephone, power, water, or pipeline company; a nuclear reactor; or a nuclear waste storage facility).

The bill, which would take effect May 1, 2002, is tie-barred to House Bill 5511.

MCL 750.212a

HOUSE COMMITTEE ACTION:

An amendment was adopted to specify an effective date of May 1, 2002.

BACKGROUND INFORMATION:

Following the events of September 11, 2001, the leadership of both caucuses of the state House of Representatives and the Senate, the governor, the attorney general, the Emergency Management Division of the Department of State Police, and various other state departments began meeting to address the issue of terrorism, evaluate the state's disaster preparedness policies, and identify areas that needed reform. In addition, the attorney general began a review of the state's criminal statutes and their ability to deal with the threat of terrorist

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activities within the state. The multi-bill package on terrorism is a bi-partisan, bi-cameral initiative to address the concerns identified in those meetings.

Senate Bill 940 is nearly identical to House Bill 5511, which has previously passed the House and is pending Senate floor action.

FISCAL IMPLICATIONS:

According to the House Fiscal Agency, the bill could increase state and local correctional costs, the extent of which would depend on how the bill affected the numbers of convictions obtained under the statute. (2-27-02)

ARGUMENTS:

For:

After the attack on the World Trade Center, it became more apparent how certain buildings or structures could be attractive targets for terrorists. The World Trade Center was apparently chosen because it housed a large number of workers and visitors on a daily basis and because it housed many businesses important to the economic health of the country, such as banks, investment companies, and insurance companies.

In Michigan, current law already provides enhanced penalties for directing bombs or other explosives at certain targets, such as schools and places of worship. Senate Bill 940, along with House Bill 5511, would expand this list to cover power plants, water facilities, telephone facilities, stadiums, bus and train stations (as well as bridges, tunnels, highways, and railroads), airports, port facilities, nuclear reactors, and nuclear waste storage facilities. These structures and facilities are important to include as they represent places where large numbers of people gather and represent important elements of the state's infrastructure such as phone, water, power, and transportation services.

Response:

The bill doesn't include shopping centers and many other structures or facilities that could also be attractive targets for terrorists.

Rebuttal:

A "vulnerable target" currently includes a building or structure open to the general public. Therefore, shopping centers, the Capitol building, libraries, movie theaters, airports, and bus and train stations would already be covered under current law. Further, adding to the list of what would trigger an enhanced penalty until every building or structure imaginable

was covered would defeat the purpose of the law, which was to identify specific buildings or structures that deserve special protection and attach harsher penalties as a means of discouraging anyone from carrying out an attack on those buildings or structures.

POSITIONS:

The office of the attorney general supports the bills. (2-26-02)

The Prosecuting Attorneys Association of Michigan supports the bill. (2-26-02)

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■ 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.