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INCREASED PENALTIES FOR CRIMES AGAINST NURSING HOME RESIDENTS

House Bill 4247 as introduced
First Analysis (4-18-01)

Sponsor: Rep. Mike Kowall
First Committee: Criminal Justice
Second Committee: Senior Health,
Security and Retirement

THE APPARENT PROBLEM:

Nursing home residents often are victims of theft and assaultive crimes. Strokes, Alzheimer's disease, and other severe illnesses and injuries can leave residents with little capacity to protect themselves and their possessions from unscrupulous employees and visitors.

Recently, the state attorney general's office began an investigation into a ring that is stealing the "identity" of nursing home residents by obtaining checking account numbers, credit card numbers, and Social Security numbers and using this information to open credit card accounts and phone service. One nursing home victim reportedly lost \$21,000 to such a scheme. In addition, residents are occasionally victims of assaults, including rape, by visitors to the facility or by employees. Though there are penalties in place for these crimes, some believe that persons who target vulnerable populations should face harsher penalties. Legislation has been proposed to specifically target crimes against residents of nursing homes, homes for the aged, county medical care facilities, and adult foster care facilities.

THE CONTENT OF THE BILL:

The bill would amend the Michigan Penal Code to specify that, notwithstanding any other provision of the act, a court could order a person convicted of a crime against certain vulnerable persons to pay a fine that is double the fine otherwise authorized, or, if the crime was not otherwise punishable by a fine, to pay a fine in the amount listed below. The bill would apply when the victim of the crime was a resident or patient of a nursing home, home for the aged, county medical care facility, or adult foster care facility.

For crimes not otherwise punishable by a fine, the fines (in addition to any authorized penalty) would be as follows:

* for a misdemeanor punishable by imprisonment for less than six months, a fine of up to \$200;

* for a misdemeanor punishable by imprisonment for six months, a fine of up to \$500;

* for a misdemeanor punishable by imprisonment for one year, a fine of up to \$1,000;

* for a misdemeanor punishable by imprisonment for more than one year and up to two years, or for a felony punishable by imprisonment for up to two years, a fine of up to \$2,000;

* for a felony punishable by imprisonment for two to four years, a fine of up to \$4,000;

* for a felony punishable by imprisonment for five years, a fine of up to \$5,000; and

* for a felony punishable by imprisonment for more than five years, a fine of up to \$10,000.

The bill would apply to violations committed on or after the effective date of the bill.

MCL 750.506d

FISCAL IMPLICATIONS:

According to the House Fiscal Agency, penal fines are constitutionally dedicated to county libraries, so to the extent that the bill increased collections of penal fines, it would increase penal fine revenues going to county libraries. (4-16-01)

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ARGUMENTS:**For:**

The bill would offer more security for those citizens who may be more vulnerable to violent crime than most of society. It would increase penalties assessed against those responsible for crimes against residents of nursing homes, homes for the aged, county medical care facilities and adult foster care facilities – these populations generally include the most frail elderly citizens. For crimes that are already punishable by fines, the fines would be doubled, and the bill would set fines for other types of crimes that currently do not specify a set amount for a fine. Protection must be afforded to these vulnerable populations. It is hoped that the bill would act as a deterrent to someone who thinks that a nursing home or other facility resident would be an easy target.

Response:

The bill should be amended to include assisted living facilities. Reportedly, the ring that is engaging in identity theft is also targeting residents of these facilities. Further, some people advocate enhanced penalties for crimes against all elderly persons, not just those who are institutionalized.

Against:

A crime is a crime, regardless of who the victim is. Attacking a healthy thirty-year-old is just as heinous, tragic, and unacceptable as attacking an invalid in a nursing home. Invalids and persons with diminished capacity from illness and injury certainly need to be protected, and that is where the emphasis should be placed - on preventive measures that afford greater protection. Research has already documented that few people think about the legal punishment that a particular crime may bring when engaging in the commission of that crime. Therefore, increasing the fine for a crime against a nursing home resident may do little more than make someone feel better that the criminal is being punished more harshly. Resources should go into better protection - through tighter security measures, better enforcement of current laws and departmental regulations, and through educating residents and their families on steps that can be taken to increase the residents' safety.

POSITIONS:

The Michigan Assisted Living Association supports the bill. (4-17-00)

The Michigan Association of Homes and Services for the Aging supports the bill. (4-16-00)

The Health Care Association of Michigan supports the bill. (4-17-00)

The Michigan Health and Hospital Association indicated support for the bill. (4-17-01)

The Campaign for Quality Care and the Michigan Advocacy Project neither supports nor opposes the bill. (3-20-01)

Analyst: D. Martens

■ 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.