

Senate Fiscal Agency  
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**SFA****BILL ANALYSIS**

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Senate Bills 72 and 74 (as introduced 2-1-01)  
Sponsor: Senator Bev Hammerstrom  
Committee: Families, Mental Health and Human Services (Senate Bill 72)  
Judiciary (Senate Bill 74)

Date Completed: 2-6-01

### **CONTENT**

**Senate Bills 72 and 74 would amend the Michigan Penal Code and the Code of Criminal Procedure, respectively, to provide criminal penalties for threatening or harming an employee of the Family Independence Agency (FIA) while the individual was performing his or her duties as an FIA employee or because of the individual's status as an FIA employee, and include the felony offenses of harming an FIA employee in the sentencing guidelines. Senate Bill 74 is tie-barred to Senate Bill 72.**

#### **Senate Bill 72**

Under the bill, it would be a misdemeanor, punishable by up to one year's imprisonment, a maximum fine of \$1,000, or both, for a person to communicate to any other person a threat that he or she would physically harm an individual who was an FIA employee because of his or her status as an FIA employee. It would be a felony, punishable by up to two years' imprisonment, a maximum fine of \$1,000, or both, for a person to assault or assault and batter an individual and cause any physical injury while that individual was performing his or her duties as an FIA employee or because of his or her status as an FIA employee. If the assault or assault and battery caused the FIA employee "serious impairment of body function", the crime would be a felony punishable by up to five years' imprisonment and/or a fine of not less than \$1,000 or more than \$5,000. A conviction or sentence imposed for a violation of the bill would not preclude a conviction or sentence for a violation of any other applicable law.

"Serious impairment of body function" would mean that phrase as used in the Michigan Vehicle Code's drunk driving provisions. Under the Vehicle Code, "serious impairment of a body function" includes, but is not limited to, one or more of the following: loss of a limb or use of a limb; loss of a hand, foot, finger, or thumb or use of a hand, foot, finger, or thumb; loss of an eye or ear or use of an eye or ear; loss or substantial impairment of a bodily function; serious visible disfigurement; a comatose state that lasts for more than three days; measurable brain damage or mental impairment; a skull fracture or other serious bone fracture; or subdural hemorrhage or subdural hematoma (MCL 257.625(5)).

#### **Senate Bill 74**

Under the bill, assault and battery of an FIA employee would be categorized in the sentencing guidelines as a Class E felony against a person, with a statutory maximum penalty of two years' imprisonment, and assault and battery of an FIA employee that caused serious impairment would be categorized as a Class E felony against a person, with a statutory maximum penalty of five years' imprisonment, as proposed by Senate Bill 72.

Proposed MCL 750.81c (S.B. 72)  
MCL 777.16d (S.B. 74)

Legislative Analyst: P. Affholter

### **FISCAL IMPACT**

Senate Bills 72 and 74 would have an indeterminate fiscal impact on State and local government.

There are no data available to indicate how many people would be convicted of assault and battery of a Family Independence Agency employee, which would be incorporated into the sentencing guidelines as a Class E felony with a maximum sentence of two years; or causing serious impairment to an FIA employee, which would be incorporated in the sentencing guidelines as Class E felony with a maximum sentence of five years. The sentencing guidelines minimum sentence range for Class E felonies is from 0-3 months to 24-38 months, and a minimum sentence cannot exceed two-thirds of the maximum sentence. If 10 offenders a year would be convicted of causing serious impairment and serve the longest allowable minimum sentence, given that the annual cost of incarceration is \$22,000, costs of incarceration for this crime would be \$1.1 million. Offenders convicted of assault and battery of an FIA employee (without serious impairment) would not receive a prison sentence because the longest allowable minimum sentence would not exceed 18 months. These offenders could be sentenced to incarceration in jail, community corrections programs, and/or probation. Local units of government would be responsible for the costs of incarceration or community corrections programs, which vary by county, while the State would incur costs of \$4.38 a day for felony probation.

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.