

Legislative Analysis



PENALTIES FOR WINDOW PEEPING

Mitchell Bean, Director
Phone: (517) 373-8080
<http://www.house.mi.gov/hfa>

House Bill 6181 (Substitute H-1)

Sponsor: Rep. Andrew Meisner

Committee: Criminal Justice

First Analysis (12-1-04)

BRIEF SUMMARY: The bill would increase the penalty for window peeping and create an enhanced penalty for second and subsequent offenses.

FISCAL IMPACT: The bill would have an indeterminate fiscal impact on the state and local units of government. To the extent that misdemeanor convictions increased under the bill, local units of government could experience increased costs of misdemeanor probation supervision and jail. Penal fine collections under the bill could increase revenues for local libraries, which are the constitutionally-designated recipients of those revenues.

THE APPARENT PROBLEM:

Window peeping is one of the acts that constitutes being a disorderly person. As an unspecified misdemeanor (meaning that a penalty is not fixed by statute), a conviction subjects an offender to imprisonment for up to 90 days, a fine of not more than \$500, or both. The problem is that the state police do not keep records of fingerprints of people convicted of 90-day misdemeanors, nor do they enter information regarding the convictions into the LEIN system. Therefore, there is no way to track the violations of an individual convicted of window peeping, nor to track his or her movements around the state.

Though the majority of window peepers who are caught and convicted never re-offend, a small proportion do go on to commit more serious violent and/or sexual crimes. Some people feel that for this subgroup, the current penalty is too low to act as a deterrent or to adequately provide for the safety of the public. A case in point involved a Michigan man who was arrested for over a dozen window peeping violations over an 18-year period and who was suspected in several more cases. But, since 90-day misdemeanors are not entered into LEIN, it was never known that he had such an extensive criminal background. Two months ago, he was arrested for home invasion with a dangerous weapon and is now serving a 12-month sentence in a county jail.

Some believe, therefore, that the penalty for window peeping should be increased to provide for better tracking of individuals who do pose a risk to public safety, and that subsequent violations should result in tougher penalties.

THE CONTENT OF THE BILL:

House Bill 6181 would add a new section to the Michigan Penal Code (MCL 750.168a) to specify that a person who entered onto the property of another person to window peep in violation of the prohibition in Section 167 (definition of a disorderly person) would be guilty of a misdemeanor punishable by imprisonment for not more than 93 days, a fine of not more than \$500, or both. A second or subsequent offense would be a misdemeanor punishable by imprisonment for not more than one year, a fine of not more than \$1,000, or both. These penalties would also apply to a violation of a local ordinance that substantially corresponded to Section 167.

A person could still be charged with, convicted of, and punished for a violation of the bill in addition to being charged with, convicted of, and punished for window peeping in violation of Section 167 or a similar local ordinance.

ARGUMENTS:

For:

Window peeping needs to be taken seriously, as it can be a precursor to more serious crimes such as sexual assaults. However, the current penalty is woefully inadequate to act as a deterrent or even to enable law enforcement agencies to track individuals as they move around the state committing window peeping violations in other cities and counties.

By increasing the maximum term of imprisonment for the crime of window peeping to 93 days, certain fingerprinting requirements will be triggered, including the offender's name being entered into the state LEIN system and a copy of the prints being sent to the FBI. This will allow law enforcement agencies to track a person if he or she commits another crime of window peeping in a different jurisdiction. Also, the bill will allow repeat offenders to be sentenced to up to a year in jail and/or a fine of up to \$1,000. Hopefully, these increased penalties will provide a greater deterrence, will appropriately punish offenders, and provide better tracking of those individuals most at risk for engaging in increasingly more violent and aggressive behaviors.

POSITIONS:

A representative of the Michigan Coalition Against Domestic and Sexual Violence testified in support of the bill. (12-1-04)

A representative of the Michigan State Police indicated support for the bill. (12-1-04)

Legislative Analyst: Susan Stutzky
Fiscal Analyst: Marilyn Peterson

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