

Legislative Analysis



REPEAL PROHIBITION AGAINST DUELLING

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House Bill 6135 as introduced
Sponsor: Rep. Alma Wheeler Smith

House Bill 6136 as introduced
Sponsor: Rep. Joel Sheltrown

House Bill 6137 as introduced
Sponsor: Rep. Richard LeBlanc

Senate Bills 760-762 as passed by the Senate
Sponsor: Sen. Ron Jelinek
House Committee: Judiciary
Senate Committee: Judiciary

First Analysis (5-25-10)

BRIEF SUMMARY: The bills would repeal the prohibition of engaging in or challenging another person to a duel and revise or delete references to dueling in other acts.

FISCAL IMPACT: A review of recent MDOC Annual Statistical Reports shows no court dispositions for the offense of dueling under MCL 750.171 for the five-year period starting in calendar year 2004 and ending at the close of calendar year 2008. As such, the bills would likely have no fiscal impact on the State or on local units of government.

THE APPARENT PROBLEM:

Periodically, the Prosecuting Attorneys Association of Michigan (PAAM) reviews criminal statutes and determines if any are no longer relevant. For instance, the crime of dueling has not been prosecuted for over 50 years. Should persons engage in a duel, the conduct could be prosecuted under existing assault and, if needed, homicide statutes. Therefore, it has been recommended by PAAM that the state laws be update to remove the crime of dueling.

THE CONTENT OF THE BILLS:

House Bill 6137 and Senate Bill 760 would repeal the prohibition of engaging in or challenging another person to a duel. House Bills 6135 and 6136 and Senate Bills 761 and 762 are companion bills that would revise or delete references to the repealed section from the Corrections Code and sentencing guidelines. House Bills 6135 and 6136 are tie-barred to House Bill 6137 or Senate Bill 760, and Senate Bills 761 and 762 are tie-barred to Senate Bill 760.

House Bill 6137 and Senate Bill 760 would amend the Michigan Penal Code (MCL 750.171) to repeal the prohibition against dueling or challenging a person to a duel. Currently, Section 171 provides that any person who engages in a duel with any deadly weapon, even if the duel does not result in a homicide, or who challenges another to fight a duel, or who sends or delivers any written or verbal message, purporting or intended to be a challenge to a duel, even if no duel ensues, is guilty of a felony punishable by imprisonment for not more than 10 years or by a fine of not more than \$5,000. In addition, a person found guilty of dueling is currently prohibited from holding or being elected or appointed to any place of honor, profit, or trust under either the state Constitution or state law.

House Bill 6135 and Senate Bill 762, which are virtually identical, would amend the Corrections Code (MCL 791.233b). A prisoner convicted and sentenced for the commission of certain listed crimes is not eligible for parole until he or she has served the minimum term imposed by the court, less an allowance for disciplinary credits, and is not eligible for special parole. A violation of Section 171 of the Michigan Penal Code (dueling) is one of the listed crimes for which this provision applies. The bill would instead reference "former" Section 171.

House Bill 6136 and Senate Bill 761, which are virtually identical, would amend the Code of Criminal Procedure (MCL 777.161) to delete the felony of dueling from the sentencing guidelines. Currently, an offense is a Class E felony against a person with a maximum term of imprisonment of 10 years.

ARGUMENTS:

For:

There has not been a case of dueling in the state for over 50 years. Should anyone in the future engage in dueling, or challenge another person to a duel, there are a number of other modern statutes on the books that prosecutors could charge under.

POSITIONS:

The Department of Corrections indicated a position of neutrality on the bills. (5-19-10)

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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.