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BILL ANALYSIS

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Senate Bills 387 and 388 (as introduced 5-19-11)
Sponsor: Senator John J. Gleason (S.B. 387)
Senator Mike Nofs (S.B. 388)
Committee: Judiciary

Date Completed: 1-12-12

CONTENT

Senate Bill 387 would amend the Michigan Penal Code to establish a mandatory term of incarceration of two years or more for fleeing and eluding.

Senate Bill 388 would amend the sentencing guidelines in the Code of Criminal Procedure to delete reference to fourth-degree fleeing and eluding, which is a Class G felony against public safety with a two-year statutory minimum.

The bill is tie-barred to Senate Bill 387, which is described in detail below.

Under the Penal Code, if the operator of a motor vehicle is given a visual or audible signal to stop by a police or conservation officer lawfully performing his or her duty, the operator may not willfully fail to obey by increasing the speed of the vehicle, extinguishing its lights, or otherwise attempting to flee or elude the officer. A violation is fourth-degree fleeing and eluding unless particular circumstances or prior convictions make the offense first-, second-, or third-degree fleeing and eluding (as described in **BACKGROUND**, below). Fleeing and eluding in any degree is a felony.

Table 1 shows the current penalties for fleeing and eluding.

Table 1

Fleeing & Eluding	Maximum Penalty	
	Prison	Fine
Fourth Degree	2 years	\$2,000
Third Degree	5 years	\$5,000
Second Degree	10 years	\$10,000
First Degree	15 years	\$15,000

Under the bill, the two-year term for a fourth-degree violation would be mandatory. For a first-, second-, or third-degree violation, the bill would impose a mandatory minimum two-year term, and retain the current maximum terms. The current maximum fines would continue to apply.

MCL 750.479a (S.B. 387)
777.16x (S.B. 388)

BACKGROUND

A person who commits fleeing and eluding is guilty of a third-degree offense if any of the following circumstances apply:

- The violation results in an accident or collision.
- A portion of the violation occurred in an area where the speed limit is 35 miles per hour or less, whether that limit is posted or is imposed as a matter of law.
- The individual has a prior conviction for fourth-degree fleeing and eluding, attempted fourth-degree fleeing and eluding, or fleeing and eluding under a current or former State law prohibiting substantially similar conduct.

A violation is second-degree fleeing and eluding if any of the following apply:

- The violation results in serious impairment of a body function of an individual.
- The violator has one or more prior convictions for first-, second-, or third-degree fleeing and eluding, attempted first-, second-, or third-degree fleeing and eluding, or fleeing and eluding under a current or former State law prohibiting substantially similar conduct.
- The violator has any combination of two or more prior convictions for fourth-degree fleeing and eluding, attempted fourth-degree fleeing and eluding, or fleeing and eluding under a current or former State law prohibiting substantially similar conduct.

An individual is guilty of first-degree fleeing and eluding if the violation results in the death of another person.

Legislative Analyst: Suzanne Lowe

FISCAL IMPACT

The bills would have an indeterminate fiscal impact on State and local government. By setting a mandatory minimum sentence for a fleeing and eluding conviction, the bills could increase offender length of stay in State facilities and thereby increase incarceration costs. The average annual cost of incarceration in a State facility is approximately \$34,000.

Fiscal Analyst: Dan O'Connor

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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.