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DISARMING A POLICE OFFICER

House Bill 4150 as enrolled
Public Act 33 of 1994
Second Analysis (1-25-95)

Sponsor: Rep. Dianne Byrum
House Committee: Judiciary
Senate Committee: Judiciary

THE APPARENT PROBLEM:

Police officers risk their lives every day in the protection of the public, and never is this point made more strongly than when an officer loses his or her life in the line of duty. Another situation, however, illustrates the point almost as strongly: when an officer's life is endangered by an assailant's attempt to obtain the officer's weapon. When that attempt is successful, the usual result is that the offender uses the weapon against the officer, sometimes fatally. While there may be disagreement over what, if anything, can be done to prevent violence against police officers, at least one officer's experience has suggested a weakness in the law. The House Judiciary Committee heard testimony from a Lansing police officer who found himself in hand-to-hand combat with an offender who was trying to get the officer's gun. The officer evidently overcame the assailant, but when the case came to court, the officer was chagrined to discover that apparently the only charge that could be brought against the offender was attempted larceny of a handgun over \$100, reportedly a two-year felony (Public Act 321 of 1990 made larceny of a firearm a five-year felony). Many have urged stronger penalties for those who disarm police officers.

THE CONTENT OF THE BILL:

The bill would amend the Michigan Penal Code to create special felony penalties for disarming a peace officer or a corrections officer. The bill would not prohibit an individual from being charged with or convicted of any violation committed while violating the bill. Any term of imprisonment imposed under the bill could run consecutively to any other term imposed for another violation arising from the same incident. The bill would take effect June 1, 1994.

Taking a weapon other than a firearm would be a felony punishable by up to four years in prison, a

fine of up to \$2,500, or both. Taking a firearm would be a felony punishable by up to ten years in prison, a fine of up to \$5,000, or both.

In either situation, certain criteria would have to be met: The offender would have to know or have reason to believe that the officer was a peace or corrections officer, the officer would have to be performing his or her duties, the weapon would have to be taken without the officer's consent, and the officer would have to be authorized to carry the weapon in the line of duty.

MCL 750.479b

FISCAL IMPLICATIONS:

The Senate Fiscal Agency (SFA) has reported that the bill would have an indeterminate fiscal impact on state and local government. The bill could result in increased costs depending on the number of arrests, prosecutions, and convictions; since data on the estimated number of offenses are not known, however, an exact cost estimate cannot be given. As an example, the SFA noted that if five new convictions resulted every year, each receiving a two-year prison sentence, annual costs would increase by approximately \$150,000. (1-27-94)

ARGUMENTS:

For:

By establishing special penalties for disarming a peace officer, the bill would fill a void in the criminal justice system, and ensure that appropriate punishments are available for an offender who attempts to take an officer's gun. Police officers, who regularly risk their lives to protect the public, would know that there is specific law to protect them, and that offenders who violated that law would be subject to stiff penalties. Those penalties

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should further serve to deter potential violators; if even one officer's life is saved by the bill, the bill will have served its purpose.

Against:

The bill would hold out a false promise. For one thing, a prosecutor can already bring more serious charges, such as assault with intent to do great bodily harm less than murder, a felony punishable by up to 10 years in prison and \$5,000 maximum fine. More to the point, however, is that the bill would have no deterrent effect. People who go for police officers' guns are not people who will stop to consider whether the crime they are about to commit is a two-year misdemeanor (which is the current penalty for obstructing an officer), a five-year felony (larceny of a firearm), or a ten-year felony (the bill's proposed penalty). If the current penalties for resisting arrest are inadequate, perhaps the bill would do better to address those, rather than create new crimes.