

# Legislative Analysis



## DISCHARGING A WEAPON FROM A VEHICLE OR AT A DWELLING: INCREASE PENALTIES

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House Bills 4167 and 4168  
Sponsor: Rep. Brenda Clack  
Committee: Judiciary

Complete to 3-5-07

### A SUMMARY OF HOUSE BILLS 4167 AND 4168 AS INTRODUCED 1-30-07

House Bill 4167 would increase penalties for drive-by shootings, increase penalties for firing a weapon at or in a building, and create enhanced penalties for violations that cause injury to a victim. House Bill 4168 would place the maximum term of imprisonment for these crimes in the corresponding section of the sentencing guidelines. Both bills would take effect 90 days after enactment.

#### House Bill 4167

The bill would amend the Michigan Penal Code (MCL 750.234a and 450.234b) to do the following:

##### Shooting from a vehicle

Currently, it is illegal to intentionally discharge a firearm from a motor vehicle, a snowmobile, or an off-road vehicle in such a manner as to endanger the public safety. A violation is a felony punishable by imprisonment for not more than four years or a fine of not more than \$2,000, or both.

The bill would increase the penalty for a violation to imprisonment for not more than 10 years and/or a fine of not more than \$10,000.

The bill would also create enhanced felony penalties based on the level of injury suffered by a victim. Causing any physical injury of another individual would be punishable by a maximum term of imprisonment of 15 years and/or a fine of not more than \$15,000. Causing the serious impairment of a body function of another would be punishable by not more than 20 years imprisonment and/or a fine of not more than \$25,000.

##### Intentionally shooting at or in a building

It is against the law to intentionally discharge a firearm *at* a facility that the shooter knows or has reason to believe is a dwelling or an occupied structure. The bill would clarify that this provision applies whether or not the dwelling or structure was actually occupied at the time the firearm was discharged. The current penalty of a maximum term of imprisonment of four years and/or a fine of not more than \$2,000 would be increased to a maximum term of imprisonment of ten years and/or a fine of not more than \$10,000.

It is also against the law to intentionally discharge a firearm *in* a facility that the shooter knows or has reason to believe is an occupied structure in reckless disregard for the safety of any individual. The bill would revise this provision to instead apply to a person who intentionally discharges a firearm in a facility that he or she knows or has reason to believe is a dwelling or occupied structure (the bill would delete the element of "reckless disregard" for the safety of another). The current penalty of a maximum term of imprisonment for not more than four years and/or a fine of not more than \$2,000 would be increased to a maximum term of imprisonment of 15 years and/or a fine of not more than \$15,000.

Causing injury to or the death of another person would result in enhanced felony penalties. Intentionally discharging a firearm at or in a building in a manner that caused the serious impairment of a body function of another would be punishable by imprisonment for not more than 20 years and/or a fine of not more than \$25,000; causing the death of another would be punishable by imprisonment for life or any term of years.

#### Miscellaneous

"Serious impairment of a body function" would mean that term as defined in Section 58c of the Michigan Vehicle Code (MCL 257.58c). The definition of "occupied structure" (a facility in which one or more individuals are present) would be deleted.

The bill would also specify that Sections 234a (shooting from a vehicle) and 234b (shooting at or in a building) would not prohibit an individual from being charged with, convicted of, or punished for any other violation of law committed by that individual while violating this provision. As with current law, these provisions would not apply to a peace officer in the performance of his or her duties or to an individual discharging a firearm in self-defense or the defense of another person.

#### House Bill 4168

The bill would amend the Code of Criminal Procedure (MCL 777.16m) to revise the sentencing guidelines. The bill would increase from 4 years to 10 the maximum term of imprisonment allowed for discharging a firearm from a vehicle or discharging a firearm in or at a dwelling or occupied structure and change the category of the crimes from a Class F felony to a Class D felony. The bill would also specify that discharging a firearm from a vehicle causing serious impairment of a body function would be a Class C felony against the public safety with a maximum term of imprisonment of 15 years; discharging a firearm in or at a dwelling or occupied structure knowing it is occupied would be a Class C felony against the public safety with a maximum term of imprisonment of 15 years, and discharging a firearm in or at a dwelling or occupied structure causing serious impairment of a body function would be a Class B felony against the public safety with a maximum term of imprisonment of 20 years. (Note: Some of the bill's language does not mirror language used in the corresponding provisions as proposed by House Bill 4167.)

The bill is tie-barred to House Bill 4167.

## **FISCAL IMPACT:**

The bills' fiscal impact would depend on how they affected felony convictions and sentences. Of the 29 sentences imposed in 2005 for discharging a firearm from a vehicle (MCL 750.234a), 14 were prison sentences, 9 were probation sentences, 2 were jail sentences, and 4 were "other" (such as sentencing under the Holmes Youthful Trainee Act). Of the calendar year 2004 commitments to the Department of Corrections, there was one person whose largest minimum term was for a violation of 750.234a; the sentence was for 2.3 years.

Of the 78 sentences imposed in 2005 for discharging a firearm at an occupied structure (MCL 750.234b), 40 were prison sentences, 26 were probation sentences, 11 were jail sentences, and 1 was "other." Of the 2004 commitments to the Department of Corrections, there were five people whose largest minimum terms were for violation or attempted violation of MCL 750.234b. The average minimum term was about 1.4 years.

To the extent that the bills increased the numbers of offenders sent to prison or increased the lengths of prison sentences, the bills could increase state correctional costs, which average about \$31,000 per prisoner annually. State costs could be offset by the amount that otherwise would have been spent on probation supervision of affected offenders; costs of parole and probation supervision average about \$2,000 per offender per year. A reduction in the number of jail sentences could result in savings for affected counties; jail costs vary by county. Any increased collections of penal fine revenues could benefit local libraries, which are the constitutionally-designated recipients of such revenues.

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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.