

DRIVE-BY SHOOTINGS: INCREASE PENALTIES

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Senate Bill 582 (Substitute S-1)
Sponsor: Sen. James Marleau

Senate Bill 583 (Substitute S-1)
Sponsor: Sen. Jim Ananich

House Committee: Criminal Justice
Senate Committee: Judiciary
Complete to 2-11-14

A SUMMARY OF SENATE BILLS 582-583 AS PASSED BY THE SENATE 10-29-13

Senate Bill 582 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. Senate Bill 583 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.

Senate Bill 582

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 as follows:

- ❖ Endangers the safety of another – imprisonment for not more than 10 years and/or a fine of not more than \$10,000.
- ❖ Causes any physical injury to another – imprisonment for not more than 15 years and/or a fine of not more than \$15,000.
- ❖ Causes the serious impairment of a body function of another – imprisonment not more than 20 years imprisonment and/or a fine of not more than \$25,000.
- ❖ Causing the death of another – imprisonment for life or any term of years.

Intentionally shooting at or in a building

It is against the law to (1) intentionally discharge a firearm *at* a facility that the shooter knows or has reason to believe is a dwelling or an occupied structure; or, (2) 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 clarify that these provisions apply to a potentially occupied structure and 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 10 years and/or a fine of not more than \$10,000.

A violation that causes injury to or the death of another person would result in enhanced felony penalties as follows:

- ❖ Any physical injury to another – maximum term of imprisonment of 15 years and/or a fine of not more than \$15,000.
- ❖ Serious impairment of a body function – maximum term of imprisonment of 20 years and/or a fine of not more than \$25,000.
- ❖ Causing death – imprisonment for life or any term of years.

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 these provisions. A court could order a term of imprisonment imposed for a violation of Section 234a or 234b to be served consecutively with any other sentence imposed for another violation arising from the same transaction. 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.

Definitions

The definition of "occupied structure" (a facility in which one or more individuals are present) would be deleted and replaced with the term "potentially occupied structure" defined to mean a structure that a reasonable person knows or should know is likely to be occupied by one or more individuals due to its nature, function, or location.

"Serious impairment of a body function" would mean that term as defined in Section 58c of the Michigan Vehicle Code (MCL 257.58c).

Senate Bill 583

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 at a dwelling or potentially occupied structure, and change the category of the crimes from a Class F felony to a Class D felony. The bill would also add the following sentencing guidelines:

- Discharging a firearm in a dwelling or potentially occupied structure would be a Class D felony against the public safety with a maximum term of imprisonment of 10 years.
- Discharging a firearm from a vehicle or in or at a dwelling or potentially occupied structure causing physical injury would be a Class C felony against a person with a maximum term of imprisonment of 15 years.
- Discharging a firearm from a vehicle or in or at a dwelling or potentially occupied structure causing serious impairment would be a Class B felony against a person with a maximum term of imprisonment of 20 years.
- Discharging a firearm from a vehicle or at or in a dwelling or potentially occupied structure causing death would be a Class A felony against a person with a maximum term of imprisonment of life.

The bill is tie-barred to Senate Bill 582.

FISCAL IMPACT:

In 2012, there were 24 sentences imposed for discharging a firearm from a vehicle and 76 sentences imposed for discharging a firearm at an occupied structure. To the extent that the bills increase the number of offenders sent to prison or increase the lengths of prison sentences, the bills could increase costs on the state's correctional system. The average cost of prison incarceration in a state facility is roughly \$35,600 per prisoner per year, a figure that includes various fixed administrative and operational costs. State costs for parole and felony probation supervision average about \$3,600 per supervised offender per year. Any increase in penal fine revenues would increase funding for local libraries, which are the constitutionally-designated recipients of those revenues.

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