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Senate Bills 582 and 583 (as enacted)
Sponsor: Senator Jim Marleau (S.B. 582)
Senator Jim Ananich (S.B. 583)
Senate Committee: Judiciary
House Committee: Criminal Justice

PUBLIC ACTS 191 & 192 of 2014

Date Completed: 7-1-14

CONTENT

Senate Bill 582 amends the Michigan Penal Code to do the following:

- Increase the penalty for discharging a firearm from a motor vehicle, snowmobile, or off-road vehicle (ORV), endangering the safety of another individual.
- Enact enhanced penalties for discharging a firearm from a motor vehicle, snowmobile, or ORV, causing physical injury, serious impairment of a body function, or death.
- Increase the penalties for discharging a firearm in or at a facility that the shooter knows or has reason to believe is a dwelling or occupied structure, and enact enhanced penalties for a violation that causes any physical injury, serious impairment of a body function, or death.

Senate Bill 583 amends the Code of Criminal Procedure to revise the sentencing guidelines for discharging a firearm from a vehicle and discharging a firearm in or at a building, and to include the penalties added by Senate Bill 582 in the sentencing guidelines.

The bills were enacted on June 23, 2014, and will take effect 90 days after that date.

Senate Bill 582

Under Section 234a of the Penal Code, intentionally discharging a firearm from a motor vehicle, snowmobile, or ORV in a manner that endangers the safety of another individual is a felony punishable by up to four years' imprisonment and/or a maximum fine of \$2,000.

The bill increases the penalty and adds enhanced penalties, as shown in Table 1.

Table 1

Intentionally Discharging a Firearm from a Motor Vehicle, Snowmobile, or ORV

Consequence of the Offense	Maximum Imprisonment ^{a)}	Maximum Fine ^{a)}
Violation endangers the safety of another	10 years	\$10,000
Violation causes physical injury to another	15 years	\$15,000
Violation causes serious impairment of a body function of another	20 years	\$25,000
Violation causes the death of another	Life	N/A
^{a)} Or both imprisonment and a fine.		

Under Section 243b of the Code, intentionally discharging a firearm *at* a facility that the shooter knows or has reason to believe is an occupied structure, in reckless disregard for the safety of any individual, is a felony. A violation is punishable by up to four years' imprisonment and/or a maximum fine of \$2,000. The same penalty applies to a person who intentionally discharges a firearm *in* a facility that he or she knows or has reason to believe is an occupied structure, in reckless disregard for the safety of any individual.

The bill increases the penalties, and adds enhanced penalties, as shown in Table 2.

Table 2

Intentionally Discharging a Firearm in or at a Facility ^{a)}

Circumstances of the Offense	Maximum Imprisonment ^{b)}	Maximum Fine ^{b)}
At a facility that the shooter knows or has reason to believe is a dwelling or a potentially occupied structure	10 years	\$10,000
In a facility that the shooter knows or has reason to believe is a dwelling or a potentially occupied structure in reckless disregard for the safety of any individual	10 years	\$10,000
Either violation above, causing any physical injury to another individual	15 years	\$15,000
Either violation above, causing serious impairment of a body function of another individual	20 years	\$25,000
Either violation above, causing the death of another	Life	N/A
^{a)} Regardless of whether the dwelling or structure actually is occupied at the time of the discharge.		
^{b)} Or both imprisonment and a fine.		

The existing penalties do not apply, and the newly enacted penalties ^{a)} will not apply, to a peace officer of this State or another state, of a local unit of this State or another state, or of the United States, performing his or her duties as a peace officer, or to an individual discharging a firearm in self-defense or the defense of another individual.

The bill provides that a term of imprisonment imposed for a violation of Section 234a or 234b may run consecutively to any term of imprisonment imposed for another violation arising from the same transaction.

The bill also specifies that Sections 234a and 234b do not prohibit an individual from being charged with, convicted of, or punished for any other violation of law that he or she commits while violating either section.

Section 234b defines "occupied structure" as a facility in which one or more individuals are present. The bill deletes that definition and defines "potentially occupied structure" as 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.

The bill defines "serious impairment of a body function" as that term is defined in Section 58c of the Michigan Vehicle Code. (Under Section 58c, the term includes one or more of the following:

- Loss of a limb or the use of a limb.
- Loss of a foot, hand, finger, or thumb, or of the use of a foot, hand, finger, or thumb.
- Loss of an eye or ear, or the use of an eye or ear.
- Loss of substantial impairment of a bodily function.
- Serious visible disfigurement.
- A comatose state that lasts for more than three days.
- Measurable brain or mental impairment.
- A skull fracture or other serious bone fracture.
- Subdural hemorrhage or subdural hematoma.
- Loss of an organ.)

Senate Bill 583

The bill revises the sentencing guidelines for the felonies of discharging a firearm from a vehicle and discharging a firearm at a building (which are categorized as public safety offenses), as shown in Table 3.

Table 3

Violation		Class Felony		Stat. Max. Sentence	
Existing	New	Existing	New	Existing	New
Discharging firearm from vehicle	Same	F	D	4	10
Discharging firearm in or at a building	Discharging firearm at a dwelling or potentially occupied structure	F	D	4	10

The bill also adds sentencing guidelines for the enhanced penalties enacted by Senate Bill 582, as shown in Table 4.

Table 4

Violation	Felony Class	Stat. Max. Sentence
Discharging firearm from vehicle causing physical injury	Person-C	15 years
Discharging firearm from vehicle causing serious impairment	Person-B	20 years
Discharging firearm from vehicle causing death	Person-A	Life
Discharging firearm in a dwelling or potentially occupied structure	Public Safety-D	10 years
Discharging firearm in or at a dwelling or potentially occupied structure causing physical injury	Public Safety-C	15 years
Discharging firearm in or at a dwelling or potentially occupied structure causing serious impairment	Person-B	20 years
Discharging firearm in or at a dwelling or potentially occupied structure causing death	Person-A	Life

MCL 750.234a & 750.234b (S.B. 582)
777.16m (S.B. 583)

Legislative Analyst: Patrick Affholter

FISCAL IMPACT

The bills will have an indeterminate negative fiscal impact on State and local government. There are two sources of potential impact. First, the bills increase the class and maximum lengths of sentence for existing crimes of discharging a firearm from a vehicle and discharging a firearm in or at a building. In 2012, there were 24 felony dispositions for discharging a firearm from a vehicle and 76 felony dispositions for discharging a firearm in or at a building. The likelihood of going to prison and the average length of sentence may increase, leading to increased costs of incarceration and community supervision for State and local government. Second, the bills create new offenses for discharging a firearm from a vehicle or in a building while causing physical injury, serious impairment, or death. Although these new offenses apply to violations that are likely covered by other provisions within the Penal Code, the bills give judges the option of imposing sentences for these additional crimes consecutively instead of concurrently. Additionally, even if sentences are concurrent, the maximum sentences and classes of the new crimes may be higher than those of the offenses they overlap. Therefore, the second impact also has the potential to increase the average length of sentence and thereby increase the costs of incarceration.

Fiscal Analyst: John Maxwell

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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.