



DOMESTIC VIOLENCE INJUNCTIONS

House Bill 4357 as introduced
Sponsor: Rep. Frank M. Fitzgerald

First Analysis (4-22-93)
Committee: Judiciary

THE APPARENT PROBLEM:

Despite a growing public awareness about domestic violence and its consequences for family members and society as a whole, and despite the enactment of various laws aimed at reducing domestic violence and providing shelter and services to victims of abuse, domestic violence continues at an alarming rate. Nationwide, some three to four million women annually are physically attacked by their husbands or partners; about four women each day are killed. Michigan's domestic violence figures are equally sobering: in 1985, local agencies reported 16,576 domestic violence offenses to the Michigan State Police; in 1990, that figure was 25,436; and in 1991, 27,201. While it is unclear to what degree these figures reflect an increase in reporting, rather an increase in the rate of violence, it is clear that domestic violence remains a significant problem in this state.

Since 1983, Michigan law has explicitly allowed the circuit court to issue injunctions prohibiting a person from assaulting a current or former spouse or household member. However, statute does not contemplate court orders to prohibit a person from threatening the physical safety of a current or former partner. As threats represent a form of victimization and often precede acts of violence, it has been suggested that the law also provide for injunctions against threats.

THE CONTENT OF THE BILLS:

House Bill 4357 would amend the divorce law (MCL 552.14) to authorize injunctive orders prohibiting one of the parties from threatening to kill or physically injure a named person. The bill could not take effect unless House Bill 4362 were enacted. (House Bill 4362, and another related bill, House Bill 4359, would make complementary amendments to the Code of Criminal Procedure and the Revised Judicature Act, respectively; enactment of all three bills would be necessary to effect the intent of the package.)

FISCAL IMPLICATIONS:

The House Fiscal Agency reports that the bill would have no fiscal implications. (4-21-93)

ARGUMENTS:

For:

Many perpetrators of domestic violence fail to take responsibility for their actions and blame the victim; to the degree that society fails to hold these people accountable for their actions, it reinforces this belief and decreases the chances that the person will change his or her behavior. Domestic violence is not a private matter, and legal intervention can effectively get this message across. To this end, legislation has been proposed that would strengthen law enforcement response to domestic violence. The bill, part of this larger package, would further these aims by making it clear that threats are a form of violence and not to be countenanced. By broadening the scope of domestic assault restraining orders and related arrest authority, the bill (together with House Bills 4362 and 4359) would significantly improve the protections to victims at an especially dangerous time--namely, when the victim first takes steps to bring the abuse to an end.

POSITIONS:

The Michigan Coalition Against Domestic Violence supports the bill. (4-21-93)

The Prosecuting Attorneys Association of Michigan supports the bill. (4-21-93)

The Department of State Police supports the concept of the bill. (4-20-93)

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