

Legislative Analysis



LEAVING CHILDREN UNATTENDED IN CAR: PROHIBIT AND PENALIZE

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House Bill 4872

Sponsor: Rep. Mark Meadows

House Bill 4873

Sponsor: Rep. Fran Amos

Committee: Judiciary

Complete to 1-29-08

A SUMMARY OF HOUSE BILL 4872 AND 4873 AS INTRODUCED 6-5-07

The bills would prohibit a person from leaving a young child unattended in a vehicle for a period of time that posed an unreasonable risk of harm or injury; create a tiered-penalty structure for violations; and place the maximum terms of imprisonment for felony violations within the sentencing guidelines. As introduced, the bills have an effective date of January 1, 2008.

House Bill 4872 would add a new section to the Michigan Penal Code (MCL 750.135a). The bill would prohibit a person who was responsible for the care or welfare of a child to leave that child unattended in a vehicle for a period of time that posed an unreasonable risk of harm or injury to the child or under circumstances that posed an unreasonable risk of harm or injury to the child. The bills would apply to leaving unattended a child less than six years of age. "Unattended" would mean alone or without the supervision of an individual 13 years of age or older who was not legally incapacitated.

The penalty for a violation would be as follows:

- 1) A misdemeanor punishable by imprisonment for not more than 93 days or a fine of not more than \$500, or both.
- 2) If the violation resulted in physical harm other than serious physical harm to the child, a misdemeanor punishable by imprisonment for not more than one year and/or a fine of not more than \$1,000.
- 3) A violation resulting in serious physical harm to the child would be a felony punishable by imprisonment for up to 10 years and/or a fine of not more than \$5,000.
- 4) A violation resulting in the death of the child would be a felony punishable by imprisonment for not more than 15 years and/or a fine of not more than \$10,000.

The terms "physical harm" and "serious physical harm" would mean those terms as defined in Section 136b of the code. (Under Section 136b, "physical harm" means any

injury to a child's physical condition. "Serious physical harm" means any physical injury to a child that seriously impairs the child's health or physical well-being, including, but not limited to, brain damage, a skull or bone fracture, subdural hemorrhage or hematoma, dislocation, sprain, internal injury, poisoning, burn or scald, or severe cut.)

House Bill 4873 would amend the Code of Criminal Procedure (777.16g) to specify that leaving a child unattended in a vehicle resulting in serious physical harm would be a Class D felony against a person with a maximum term of imprisonment of 10 years. Leaving a child unattended in a vehicle resulting in death would be Class B felony against a person with a 15-year maximum term of imprisonment. The bill is tie-barred to House Bill 4872.

FISCAL IMPACT:

Any fiscal impact on the state and local units of government would depend on how the bills affected prosecutions and sentencing. If there were an increase in the number of misdemeanor convictions or the severity of misdemeanor sentences, local costs of incarceration and misdemeanor probation supervision, both of which vary by jurisdiction, could increase. If there were an increase in the number of felony convictions or the severity of felony sentences, state or local costs of prison or jail incarceration and state costs of felony probation supervision could increase. Local costs of jail incarceration vary by county; appropriated state costs of prison incarceration average about \$32,000 per offender per year, a figure that includes various fixed administrative and operational costs. Costs of felony probation and parole supervision average about \$2,000 per supervised offender per year. Any increase in penal fine revenues would benefit local libraries, which are the constitutionally-designated recipients of such revenues.

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