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PENALTIES FOR SALE OF A PISTOL TO A MINOR

House Bill 4272 with committee amendments First Analysis (7-1-98)

Sponsor: Rep. Michael Hanley
Committee: Judiciary

THE APPARENT PROBLEM:

Youth violence is one of the most frightening trends in America today. The use of guns by children seems to have proliferated greatly over the last few years, and according to the National Institute of Justice, this perception is not inaccurate. Between 1985 and 1992, the number of homicides committed by young people and the number of homicides they committed with guns doubled. One of the possible reasons for this increase is that gangs involved in the drug trade armed themselves with guns for protection. As guns proliferated among juvenile drug dealers, other children and even some adults came to believe that guns were necessary for their own protection. In addition, among youth and, again, among some adults, possession of firearms garnered status and power for the holder. Another possibility is that those involved in the drug trade often use younger children to carry out gun crimes knowing that the youthful offender is likely to receive a more lenient sentence than an adult member of the gang might receive.

In any event, more and more children have ended up in possession of weapons posing a threat to themselves and others. Since it is illegal for someone under the age of 18 to purchase a gun in this state, there are effectively only two ways a minor can get a gun -- steal it or be given or sold it illegally. It has been suggested that a concerted effort should be made to get guns out of the hands of young people. Since the current law makes it only a misdemeanor to transfer a gun to a minor, enhancing the penalty for such an action could help to prevent some transfers of guns to minors.

THE CONTENT OF THE BILL:

House Bill 4272 would amend the Penal Code to provide a specific penalty for selling or otherwise transferring a pistol to a person under the age of 18. The current penalty is the same for all illegal sales of pistols -- a misdemeanor. The sale or transfer of

ownership of a pistol to a minor would be a felony and would be punishable by no more than four years in prison and/or a fine of no more than \$2,000. In addition, the sale or transfer of a pistol to a minor in a weapon-free school zone would also be a felony and would be punishable by one or more of the following: a) imprisonment for no more than four years, b) community service for not more than 150 hours, and/or c) a fine of not more than \$6,000.

Finally, the bill would amend the sentences listed for misdemeanor offenses to match changes elsewhere in Michigan law (from 90 days to 93 days) and also remove an unnecessary definition of "licensed dealer" from a section of the code in which the term is not used.

MCL 750.223 and 750.237a

FISCAL IMPLICATIONS:

Fiscal information is not available.

ARGUMENTS:

For:

There are many good reasons to prevent minors from possessing guns. For example, juveniles' use of guns is more random than adults'; teen behavior is often marked by recklessness and bravado, while adults generally act with more restraint; minors generally lack to maturity to recognize the possible consequences of their actions. The escalation of gun availability has vastly increased the number of gun murders by juveniles; disputes that were once settled by fistfights are now settled by gunfire.

The bill would help to eliminate some avenues of access to guns by juveniles by proposing a more significant punishment for adults who give or sell or

transfer ownership of a gun to a minor. By providing a significant penalty for such an action, the bill will give many people who might transfer guns to minors reason to hesitate before doing so in the future. The bill also may provide a means of getting at higher echelon drug gang members who often do not take part in the criminal activity of the gang themselves but do supply younger gang members with guns.

Against:

Increasing the penalties for the sale or transfer of ownership of a gun to a minor is not likely to influence the behavior of those who sell guns to minors. Furthermore, the fact that the penalty only applies to sales or transfers of ownership could limit its effectiveness. Conceivably, a gang member providing a gun to a minor could avoid penalty by telling the minor to return the gun later, rather than transferring ownership.

Finally, given the fact that some neighborhoods are very dangerous and in some cases kids who refuse to join gangs are threatened and even killed, providing a minor with a weapon for self defense is not necessarily such an outrageous action.

POSITIONS:

There are no positions on the bill.

Analyst: W. Flory

■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.