

## **ORDINANCES: 93-DAY JAIL TERM**

**House Bill 4964 (Substitute H-1)**  
**Sponsor: Rep. Ted Wallace**

**House Bill 4965 (Substitute H-1)**  
**Sponsor: Rep. Kirk A. Profit**

**House Bill 4966 (Substitute H-1)**  
**Sponsor: Rep. Candace Curtis**

**House Bill 4967 (Substitute H-1)**  
**Sponsor: Rep. Kwame Kilpatrick**

**House Bill 4968 (Substitute H-1)**  
**Sponsor: Rep. Mark Schauer**

**First Analysis (10-29-97)**  
**Committee: Local Government**

### ***THE APPARENT PROBLEM:***

Public Act 64 of 1994 provided a penalty of up to 93 days' imprisonment for simple domestic assault. The enhanced penalty was adopted, in part, because it would trigger statutory fingerprinting and criminal reporting requirements. When a person is arrested for an offense carrying a penalty exceeding 92 days, he or she is fingerprinted and the fingerprints are sent to the Criminal Records Division of the Department of State Police and the Federal Bureau of Investigation. Local units of government can adopt ordinances based on state statutes. Jail penalties for local ordinance violations, however, are typically limited by statute to 90 days. This has created a conflict, according to at least one township attorney. According to information provided to the Local Government Committee by the Ypsilanti Township attorney, crimes punishable by a 90-day maximum penalty cannot be entered into the Law Enforcement Information Network (LEIN) until a conviction is rendered. The township attorney points out that LEIN is a computerized network that reports criminal histories used by law enforcement, including prosecutors and judges, to decide what charges to bring, bail, and sentences. The disparity between the maximum penalty for violation of the state domestic assault statute and a locally adopted domestic assault ordinance means that arrests for violating the state law are entered in LEIN whereas arrests for local violations are not. This has led the Ypsilanti Township attorney to conclude that prosecuting domestic assault locally is

detrimental. Legislation to address this matter has been introduced.

**THE CONTENT OF THE BILLS:**

The bills would amend various local government enabling statutes to allow penalties of imprisonment for up to 93 days for a violation of an ordinance if the violation substantially corresponds to a violation of state law that is a misdemeanor for which the maximum period of imprisonment is 93 days. (The maximum fine of \$500 would remain unchanged.)

House Bill 4964 would amend the Home Rule Cities Act (MCL 117.4i). House Bill 4965 would amend the Charter Township Act (MCL 42.21). House Bill 4966 would amend Public Act 246 of 1945 (MCL 41.183), which deals with township boards. House Bill 4967 would amend the Home Rule Village Act (MCL 78.24). House Bill 4968 would amend the General Law Village Act (MCL 66.2)

**FISCAL IMPLICATIONS:**

Fiscal information is not available.

**ARGUMENTS:**

**For:**

The bills would permit local units of government to increase the maximum jail penalty from 90 days to 93 days for local ordinances based on state statutes carrying 93-day maximums. The increased penalty would trigger fingerprinting and criminal history record keeping

requirements, and make them the same for arrests under both local ordinances and state law. The bills, therefore, will improve the criminal justice system's ability to track repeat offenders. In particular, the bills would remove an impediment to municipal attorneys prosecuting domestic assault offenders under local ordinances. The bills are permissive.

**Response:**

As noted above, the bills will not increase penalties in and of themselves. Local units will have to adopt the increased penalties as part of local ordinances; without local action, the bills will have no effect.

**POSITIONS:**

The Michigan Municipal League supports the bills. (10-28-97)

The Michigan Townships Association supports the bills. (10-28-97)

Analyst: C. Couch

---

#