

Senate Fiscal Agency  
P. O. Box 30036  
Lansing, Michigan 48909-7536

**SFA****BILL ANALYSIS**

Telephone: (517) 373-5383  
Fax: (517) 373-1986  
TDD: (517) 373-0543

House Bill 6015 (Substitute S-1 as reported)  
Sponsor: Representative Valde Garcia  
House Committee: Criminal Law and Corrections  
Senate Committee: Judiciary

### **CONTENT**

The bill would amend the Code of Criminal Procedure to add all of the following to the sentencing guidelines:

- Failure to use due care and caution, causing injury to emergency personnel, which would be categorized as a Class G felony against a person with a statutory maximum sentence of two years' imprisonment.
- Failure to use due care and caution, causing death to emergency personnel, which would be categorized as a Class C felony against a person with a statutory maximum sentence of 15 years' imprisonment.
- Failure to use due care and caution while under the influence of or impaired by alcohol or a controlled substance, causing death to emergency personnel, which would be categorized as a Class A felony against a person with a statutory maximum sentence of life in prison.

The bill also would change the felony classification for a third or subsequent offense of operating or serving as crew of an aircraft while under the influence of alcohol or a controlled substance. Currently, that offense is a Class G felony; under the bill, it would be a Class E felony. In addition, the bill would categorize as a Class E felony operating or serving as crew of an aircraft while under the influence causing serious impairment.

The bill would include in the guidelines violations of the Organic Products Act (Public Act 316 of 2000, which will take effect on October 1, 2001). A violation of that Act would be categorized as a Class G felony with a statutory maximum sentence of four years' imprisonment.

The bill is tie-barred to House Bill 5549, which would amend the Michigan Vehicle Code to establish requirements for drivers approaching and passing a stationary emergency vehicle under certain conditions and establish a misdemeanor penalty for a violation of the bill, as well as felony penalties for violations that injured or killed a police officer, fire fighter, or other emergency personnel.

MCL 777.12

Legislative Analyst: P. Affholter

### **FISCAL IMPACT**

The bill would have an indeterminate fiscal impact on State and local government.

Failure to use due care when approaching and passing an emergency vehicle would be incorporated into the sentencing guidelines as a Class G felony with a sentencing guidelines minimum range between 0-3 months and 7-23 months; failure to use due care resulting in death would be a Class C felony with a sentencing guidelines minimum range between 0-11 months and 62-114 months; and failure to use due care while drunk or impaired causing death would be a Class A felony with a minimum range between 21-35 months and 270-450, or life. Assuming that two offenders a year would be convicted of each of the crimes and would serve sentences at the high end of the sentencing guidelines range, but not life, given that the average annual cost of incarceration is \$22,000, costs for the State could increase \$2,153,000. Local units of government would receive the fine revenue or incur the cost of incarceration for offenders penalized with fines or periods of incarceration less than 18 months.

Also, according to the 1998 Department of Corrections Annual Statistical Report, there were no offenders convicted for a third or subsequent offense of operating or serving as crew of an aircraft while under the

influence nor are there any offenders serving a prison term for which this offense is the controlling sentence. (The Department of Corrections assigns each sentence a number when an offender has multiple convictions and tracks the offender by the primary or controlling sentence.) Given that the bill would change the crime from a Class G felony with a sentencing guidelines minimum range from 0-3 months to 7-23 months, to a Class E felony with a minimum range from 0-3 months to 24-38 months, the average minimum sentence for the offense could increase, and increase costs of incarceration for State or local government. To the extent that no offenders were convicted of this offense in 1998, the added penalties would not increase length of stay for offenders or cost of incarceration.

Date Completed: 12-4-00

Fiscal Analyst: K. Firestone