

INCREASE PENALTIES FOR WINDOW PEEPING

Mitchell Bean, Director
Phone: (517) 373-8080
<http://www.house.mi.gov/hfa>

House Bill 4753 with House committee amendment

Sponsor: Rep. Andrew Meisner

Committee: Judiciary

First Analysis (6-29-05)

BRIEF SUMMARY: The bill would increase the penalty for window peeping and create an enhanced penalty for second and subsequent offenses.

FISCAL IMPACT: To the extent that the bill increased the number of misdemeanor offenders receiving jail sentences, increased the length of those sentences, or increased the numbers of offenders on misdemeanor probation supervision, it could increase local correctional costs. Any increase in collection of penal fine revenues could benefit local libraries, which are the constitutionally-designated recipients of that revenue.

THE APPARENT PROBLEM:

Window peeping is one of the acts that constitutes being a disorderly person. As an unspecified misdemeanor (meaning that a penalty is not fixed by statute), a conviction subjects an offender to imprisonment for up to 90 days, a fine of not more than \$500, or both. The problem is that the state police do not keep records of fingerprints of people convicted of 90-day misdemeanors, nor do they enter information regarding the convictions into the LEIN system. Therefore, there is no way to track the violations of an individual convicted of window peeping, and so police and the courts are unaware of the individual's pattern of behavior.

Though the majority of window peepers who are caught and convicted never re-offend, a small proportion do go on to commit more serious violent and/or sexual crimes. Some people feel that for this subgroup, the current penalty is too low to act as a deterrent or to adequately provide for the safety of the public. A case in point involved a Michigan man who was arrested for over 20 window peeping violations since 1987 and who was suspected in several more cases. But, since 90-day misdemeanors are not entered into LEIN, it was never known that he had such an extensive criminal background. Last year, he was arrested for home invasion with a dangerous weapon and, though sentenced to a year in the county jail, is already out of jail due to overcrowding.

Some believe, therefore, that the penalty for window peeping should be increased to provide for better tracking of individuals who do pose a risk to public safety, and that subsequent violations should result in tougher penalties.

THE CONTENT OF THE BILL:

Window peeping is included in the definition of a "disorderly person." Under the penal laws, being a disorderly person is a misdemeanor offense punishable by not more than 90 days imprisonment and/or a fine of not more than \$500.

House Bill 4753 would add a new section to the Michigan Penal Code (MCL 750.168a) to increase the penalty if window peeping involved trespassing. Under the bill, the crime would remain a misdemeanor but the punishment would increase to not more than 93 days imprisonment and/or a fine of not more than \$500 if a person entered onto the property of another to window-peep. (When the maximum term of imprisonment for a crime exceeds 90 days, certain fingerprinting and record retention requirements are triggered, including submitting a copy of the offender's fingerprints to the FBI.)

A second or subsequent conviction under the bill would be a misdemeanor punishable by imprisonment for not more than one year and/or a fine of not more than \$1,000. Furthermore, the person could still be charged with, convicted of, or punished for any other violation of law committed while violating or attempting to violate the bill's provisions.

The bill would take effect January 1, 2006.

BACKGROUND INFORMATION:

The bill is virtually identical to the House Bill 6181 which passed the House last December but failed to see action in the Senate.

ARGUMENTS:

For:

Window peeping needs to be taken seriously, as it can be a precursor to more serious crimes such as sexual assaults. However, the current penalty is woefully inadequate to act as a deterrent or even to enable law enforcement agencies to track individuals as they move around the state committing window peeping violations in other cities and counties.

By increasing the maximum term of imprisonment for the crime of window peeping to 93 days, certain fingerprinting requirements will be triggered, including the offender's name being entered into the state LEIN system and a copy of the prints being sent to the FBI. This will allow law enforcement agencies to track a person if he or she commits another crime of window peeping in a different jurisdiction. Also, the bill will allow repeat offenders to be sentenced to up to a year in jail and/or a fine of up to \$1,000. Hopefully, these increased penalties will provide a greater deterrence, will appropriately punish offenders, and provide better tracking of those individuals most at risk for engaging in increasingly more violent and aggressive behaviors.

POSITIONS:

The Prosecuting Attorneys Association of Michigan supports the bill. (6-29-05)

A representative of the Ingham County District Probation Office/ 55th Judicial District Court testified in support of the bill. (6-29-05)

Legislative Analyst: Susan Stutzky
Fiscal Analyst: Marilyn Peterson

■ 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.