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SFA



BILL ANALYSIS

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Senate Bill 78 (Substitute S-2 as reported)
Sponsor: Senator Jon Cisky
Committee: Judiciary

Date Completed: 11-18-98

RATIONALE

In recent years, the incidence of violent crime reportedly has been decreasing nationwide. Part of the credit for this downward trend may belong to the increased number of task forces established by the Federal government that combine the efforts of Federal, state, and local law enforcement agencies. When these interjurisdictional task forces are established, Federal officers typically deputize state and local officers so that they may enforce Federal law. Although 38 other states reportedly have laws that give Federal officers broad authority to enforce state law, however, Michigan's authorizing statute is considered very limited. Federal officers claim that, often, they have no more enforcement jurisdiction than an average Michigan citizen, even if they witness a violation of State law. Some people believe that Federal officers' statutory authority to enforce State law should be broadened.

CONTENT

The bill would amend the Code of Criminal Procedure to revise provisions authorizing a Federal law enforcement officer to enforce Michigan law.

Currently, the Code authorizes a Federal law enforcement officer to arrest a person if the officer possesses a warrant for the person's arrest for the commission of a felony or the officer has received positive information from an authoritative source that another Federal law enforcement officer or peace officer possesses a felony arrest warrant.

The bill would delete that provision and specifies, instead, that a Federal law enforcement officer could enforce State law to the same extent as a State or local officer only if the officer were authorized under Federal law to arrest a person, with or without a warrant, for a violation of a Federal statute; the officer were authorized by Federal law to carry a firearm in the performance

of his or her duties; and one or more of the following applied:

- The officer possessed a State warrant for the arrest of the person for a felony.
- The officer had received positive information from an authoritative source, in writing or by telegraph, telephone, teletype, radio, computer, or other means, that another Federal law enforcement officer or a peace officer possessed a State warrant for the arrest of the person for a felony.
- The officer was participating in a joint investigation conducted by a Federal agency and a State or local law enforcement agency.
- The officer was acting pursuant to the request of a State or local law enforcement officer or agency.
- The officer was responding to an "emergency".

Under the bill, a Federal law enforcement officer who met those requirements would have the privileges and immunities of a Michigan peace officer, but the bill would not impose liability upon or require indemnification by the State or a local unit of government for an act performed by a Federal law enforcement officer.

("Emergency" would mean a sudden or unexpected circumstance that required immediate action to protect the health, safety, welfare, or property of a person from actual or threatened harm or from an unlawful act.)

MCL 764.15d

ARGUMENTS

(Please note: The arguments contained in this analysis originate from sources outside the Senate Fiscal Agency. The Senate Fiscal Agency neither supports nor opposes legislation.)

Supporting Argument

By expanding the role of Federal officers in the enforcement of State law, the bill would contribute to the smooth operation of interjurisdictional law enforcement task forces established by the Federal government. When a task force investigated and enforced a matter of State law, Federal officers on that task force could routinely be full partners in the effort, whereas their role now may be limited due to Michigan's narrow statutory authorization for them to enforce State law. In addition, including enforcement authorization for responding to an emergency situation would grant Federal officers the legal means to intervene in unforeseen situations, such as witnessing a store robbery. Under current law, a Federal officer who happens to be present during a situation like that essentially has no more authority to respond than does the average citizen.

Supporting Argument

The bill would go far toward enhancing the protection of the public and increasing law enforcement's pressure on criminals. In effect, the bill would add some 700 police officers to the streets of Michigan, without any added cost to the State or local units of government.

Opposing Argument

The bill's definition of "emergency" is quite broad and could give Federal law enforcement officials, who typically are not uniformed officers, unfettered authority to intervene in situations that usually are within the purview of local and State uniformed officers. If a Federal officer considered an erratic driver on the road to be a "sudden or unexpected circumstance that requires immediate action", for instance, the officer could be authorized under the bill to make a traffic stop. Drivers who were aware of previous problems in Michigan of people impersonating police officers could confuse a plainclothes Federal officer in an unmarked car with someone who might prey on people by pretending to be a police officer. This could cause uneasy or even dangerous situations on the State's highways.

Response: Other states that have given broad law enforcement authority to Federal officers apparently have not had this type of problem. Most Federal law enforcement action in regard to state laws is conducted within the efforts of interjurisdictional violent crime task forces.

Legislative Analyst: P. Affholter

FISCAL IMPACT

The bill would have no fiscal impact on State or local government.

Fiscal Analyst: B. Baker

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This analysis was prepared by nonpartisan Senate staff for use by the Senate in its deliberations and does not constitute an official statement of legislative intent.