

# Anti-racketeering bill: threat to business

By Tim Richard  
Staff writer

A state Senate committee is drafting an anti-racketeering bill to plug a hole in Michigan's criminal code.

But civil libertarians are warning senators against writing a law that local prosecutors can easily abuse.

"Traditional law enforcement looked at one crime, one trial, one defendant. It can't deal with this (a

business racket)," said supporter George Best II, an assistant U.S. attorney and former assistant Wayne County prosecutor.

"The all-or-nothing tracing of assets," Best told Chairman Rudy Nichols of the Senate Judiciary Committee last week.

Best said Nichols' Senate Bill 124 is needed because a single conviction of one person fails to put a continuing racket out of business.

NICHOLS, R-Waterford, said he plans to report the bill out of committee May 10.

He was encouraged by Jean Ruble, of Terrell's Committee Against Pornography.

"We've had many convictions against the Studio North manager or employees. But the owners, the heavies, hide behind the corporation," she said, making it clear she would like to put the theater out of business.

But one committee member, Richard Fessler, R-Commerce, said in an interview he has "a problem" with that. "It's a problem that can be used to go after anybody for anything — a utility, a businessman who's a potential political opponent."

"It's modeled after the federal (racketeering) statute. But except for Ivan Boesky, they've never had a conviction under it," said Fessler, an attorney who has done criminal defense work.

**'It's too broad. It can be used to go after anybody for anything — a utility, a businessman who's a potential political opponent.'**

— State Sen. Richard Fessler

"Three days a week," Neuman replied.

PAUL DENENFELD, legal director for the American Civil Liberties Union, said his group couldn't support SB 124 despite "its noble goals," ACLU's specific complaints:

- A section defining "enterprise" covers "everyone and every organization. It's not confined to organized crime. Even anti-abortion protesters have found themselves in the net."

- A "pattern" of racketeering activity is defined as two acts in 10 years — or in 25 years. If a prison sentence occurred, Denenfeld called it "friendly fire."

- The bill may fall constitutional because its definitions of "solicitation" and "coercion" may violate free speech protection.

- The bill's seizure provisions are so broad that it looks as if a defendant couldn't even pay his attorney. "We put a premium on the Sixth Amendment right of the best defense they're able to pay for," said Denenfeld.

- Among "horror stories" of anti-racketeering laws in other states, he cited a sensible prosecutor who used the law to prosecute people illegally digging claims.

- Bookstores can be put out of business for two convictions for two books. It (the statute) is not intended for that, but it can be used that way.

- The bill puts a great deal of discretion in a local prosecutor's hands. You should consider some kind of control (over use of the law) in the attorney general's hands," he said.

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