

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 (in

business racket)," said supporter George Best II, an assistant U.S. attorney and former assistant Wayne County prosecutor. "This allows 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 4. He was encouraged by Jean Rubman of Ferndale'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 the bill. "It's too broad. It 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.

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— State Sen. Richard Fessler

BEST GAVE the testimony that most impressed Nichols during a 2½-hour hearing in the City-County Building, Detroit.

A criminal who makes \$5 million and goes to prison for five years will earn \$1 million a year for his time behind bars, Best said — unless the business assets can be seized. Among the cases he cited:

• A gambler took in \$700,000 a week. But law enforcers could seize only the \$2,000 they found on his premises. "His illegal gambling money stayed in his bank accounts."

• "White Boy Rick" Werabe, Detroit drug dealer convicted for life, had \$350,000 in assets seized — which seemed hefty until Best pointed out the young criminal earned millions.

• Another drug dealer made millions on cocaine but had only "a few cars" seized.

"Your bill will allow integration of the forfeiture case with the criminal case," Best told Nichols. "You've

got everything rolled into one case. It increases judicial efficiency."

DETECTIVE Lt. Edward Neumann of the State Police downriver auto theft team supported the bill, citing a suburban doctor who ran an auto "chop shop."

The man would hire a \$13,000 luxury auto, strip the parts, let the car be recovered, buy the salvaged car for \$830, put the parts back on and sell it.

With only one mechanic and two "rippers," the man used his entire house, two pole barns in Monroe County, a leased building in Woodhaven, an airport building in Charlevoix and a barn in Saline to store his wares.

"He even convinced friends to put the title to cars in their names, saying it was so he wouldn't have to get a dealer's license and be bonded," Neumann said.

"He kept beautiful records. That didn't hurt us," the detective said, adding that present forfeiture procedures are "cumbersome."

"Did he practice medicine at all?" Nichols asked.

"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. Denefeld called it "frighteningly broad."

• The bill may fail constitutionally because its definitions of "solicitation" and "coercion" may violate free speech protections.

• 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 Denefeld.

• Among "horror stories" of anti-racketeering laws in other states, he cited a Seattle 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."

"This 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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