



**Senate Fiscal Agency**  
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BILL



ANALYSIS

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House Bill 4197 (Substitute S-3 as reported)  
Sponsor: Representative Kirk A. Profit  
House Committee: Judiciary and Civil Rights  
Senate Committee: Judiciary

## **CONTENT**

The bill would amend the Michigan Penal Code to revise the felony threshold level and increase the penalties for various larceny offenses and to create the misdemeanor of third-degree retail fraud. The bill would take effect on April 1, 1996, and is tie-barred to House Bills 4198 and 4199.

Under House Bill 4197 (S-3), the various offenses would be punishable by graduated maximum penalties, depending on the value of the property involved in the offense and the number of prior convictions. The offense would be a felony punishable by up to 10 years' imprisonment and/or a maximum fine of three times the value, if the value were \$20,000 or more; if the value were less than \$200 and the person had three or more prior convictions; if the value were \$200 or more, but less than \$1,000, and the person had two or more prior convictions; or if the value were \$1,000 or more, but less than \$20,000, and the person had one prior conviction. The offense would be a felony punishable by up to five years and/or \$10,000 or three times the value, whichever was greater, if the value were \$1,000 or more, but less than \$20,000; if the value were less than \$200 and the person had two prior convictions; or if the value were \$200 or more, but less than \$1,000, and the person had one prior conviction. The offense would be a misdemeanor punishable by up to one year and/or \$2,000 or three times the value, whichever was greater, if the value were \$200 or more, but less than \$1,000, or if the value were less than \$200 and the person had one prior conviction. The offense would be a misdemeanor punishable by up to 93 days' imprisonment and/or a maximum fine of \$500 or three times the value, whichever was greater, if the value were less than \$200. The offenses to which the bill would apply are: simple larceny; larceny from a vehicle; larceny of a rented vehicle; various malicious destruction of property offenses, including the destruction of personal property, a house, barn, or building, and memorial markers; and dealing in stolen property.

Under the Code, the felony of first-degree retail fraud involves property or money valued at over \$100 and the misdemeanor of second-degree retail fraud involves property or money valued at \$100 or less. Under the bill, the felony of first-degree retail fraud would involve property or money valued at \$1,000 or more; the misdemeanor of second-degree retail fraud would apply if the value were \$200 or more, but less than \$1,000; and the new misdemeanor of third-degree retail fraud would apply if the value were less than \$200. First-degree retail fraud would be punishable by up to five years' imprisonment (rather than two years) and/or a maximum fine of \$10,000 or three times the value, whichever was greater (rather than a fine of up to \$1,000). Second-degree retail fraud would be punishable by up to one year's imprisonment (rather than 93 days) and/or a maximum fine of \$2,000 or three times the value, whichever was greater (rather than a fine of up to \$100). Third-degree retail fraud would be punishable by up to 93 days' imprisonment and/or a maximum fine of \$500 or three times the value, whichever was greater.

MCL 750.356 et al.

Legislative Analyst: P. Affholter

## **FISCAL IMPACT**

The bills would likely result in cost savings to the State and could increase costs for local units of government.

In 1994, the Department of Corrections received a total of 1,181 offenders for violations of the sections of law being amended by the bills. No aggregate data are available, however, on the dollar value of the property that led to each commitment. If one assumes that approximately 10% of these commitments were the result of crimes involving values less than the new felony threshold (generally \$1,000) and therefore would not receive prison sentences under the bills, then annual commitments would be reduced by about 118, at a savings of approximately \$1.8 million (assuming an average of one-year actual time served). If that figure were more like 30%, then the reduction in annual commitments would be closer to 354, with a corresponding savings of \$5.3 million. The increase in fines proposed in the bills also could provide judges with other nonprison sentencing options that also could reduce prison commitments. If these offenders, however, would now be convicted of misdemeanors instead of felonies, then there could be increased costs incurred by local units of government for providing sanctions (jail, community services, etc.) at the local level.

The bills also would increase maximum sentences for crimes generally concerning property over \$20,000. To the extent that this change resulted in an increase in sentence lengths, then costs could increase. There is no reliable way to estimate, however, how many offenders are involved in crimes involving a value greater than \$20,000, and the increased sentence lengths that judges might impose, as a result of this infraction.

### **1994 Prison Commitments for Crimes in House Bills 4197 to 4199**

750.131	Writing Bad Checks.....	15
750.174	Embezzlement over \$100.....	59
750.218	False Pretenses over \$100.....	70
750.219a	Obtaining services by false telephone number.....	1
750.356	Larceny over \$100.....	100
750.356a	Larceny from a motor vehicle.....	121
750.356c	Retail Fraud - first degree.....	443
750.356d	Retail Fraud - second degree.....	2
750.362a	Failure to return rented property over \$100.....	3
750.377a	Malicious destruction of property over \$100.....	41
750.380	Malicious destruction of building over \$100.....	31
750.387	Malicious destruction of tombs/memorials.....	1
750.535	Receiving and concealing stolen property over \$100.....	294
<b>TOTAL:.....</b>		<b>1,181</b>

Date Completed: 12-18-95

Fiscal Analyst: M. Hansen

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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.