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BILL



ANALYSIS

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House Bills 5607, 5608, and 5609 (as passed by the House)
Sponsor: Representative Terry Geiger
House Committee: Judiciary and Civil Rights
Senate Committee: Families, Mental Health and Human Services

Date Completed: 5-1-96

CONTENT

The bills would amend various acts to make it a felony to trespass on the grounds of a State correctional facility, and to allow warrantless arrests of trespassers by certain Department of Corrections employees. "State correctional facility" would mean a facility or institution that housed a prisoner population under the jurisdiction of the Department of Corrections. It would not include a community corrections center or a community residential home.

The bills are tie-barred to each other and would take effect September 1, 1996.

House Bill 5607

The bill would amend the Code of Criminal Procedure to specify that a person who trespassed on a State correctional facility in violation of House Bill 5609 could be arrested without a warrant by any corrections officer of the Department of Corrections designated by the Director of the Department as having the authority to arrest such persons. A corrections officer could not make an arrest under these provisions unless he or she were in uniform.

House Bill 5608

The bill would amend Public Act 80 of 1905, which provides for the care, order and preservation of State buildings and property, to specify that trespassing on a State correctional facility would be governed by House Bill 5609, and that the warrantless arrest of a person for trespassing on a State correctional facility by a superintendent, watchperson, or guard would be limited to those persons authorized under House Bill 5607.

Currently, the Act allows various State departments and boards of universities to prescribe and enforce "rules and regulations for the care, preservation, and protection of buildings and property dedicated and appropriated to the public use, over which they have jurisdiction or power of control and the conduct of those coming upon the property thereof, which is necessary for the maintenance of good order and the protection of the state property". The Act also specifies that a person chosen by a board or department as a superintendent, watchperson, or guard has "the general authority of a deputy sheriff, relative to the arrest and custody of an offender against a rule prescribed by the appointing board or department, and may arrest without warrant a person found violating a rule which is prescribed by that board or department relative to trespass upon

property...". The Act proscribes certain actions relative to public property and specifies that a violation of the prohibitions constitutes a misdemeanor punishable by imprisonment for at least 10 days but not more than 60 days, a fine of up to \$50, or both.

House Bill 5609

The bill would amend the Michigan Penal Code to specify that a person who willfully trespassed by entering or remaining on the property of a State correctional facility without authority or permission to enter or remain would be guilty of a felony punishable by imprisonment for up to four years or a fine of up to \$2,000, or both.

Currently, the Code specifies that any person who, without lawful authority, willfully enters the lands or premises of another after having been forbidden to do so, or any person who, without lawful authority, refuses or neglects to leave the land or premises of another after being requested to do so is guilty of a misdemeanor punishable by a maximum jail sentence of 30 days, a maximum fine of \$50, or both.

Proposed MCL 764.23a (H.B. 5607)
MCL 19.142 & 19.143 (H.B. 5608)
Proposed MCL 750.552b (H.B. 5609)

Legislative Analyst: L. Burghardt

FISCAL IMPACT

House Bills 5607 and 5608 would have no fiscal impact on State or local government.

House Bill 5609 would have an indeterminate, yet likely little, fiscal impact on State and local government. To the extent that the bill resulted in increased arrests, and that the offenders then were sentenced to prison or jail, State and local costs for incarceration could increase. It is difficult to predict the number of annual convictions as a result of the bill. As a comparison, in 1994, there was one conviction recorded in circuit court for criminal trespassing and the sanction imposed for that misdemeanor violation was probation.

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.