

Senate Fiscal Agency
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SFA**BILL ANALYSIS**

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Senate Bill 633 (Substitute S-3 as passed by the Senate)
Senate Bill 634 (Substitute S-2 as passed by the Senate)
Senate Bill 635 (Substitute S-1 as passed by the Senate)
Sponsor: Senator William Van Regenmorter (Senate Bills 633 & 634)
Senator Dale L. Shugars (Senate Bill 635)
Committee: Judiciary

Date Completed: 9-28-99

RATIONALE

After two students at Columbine High School in Littleton, Colorado went on a shooting rampage and bombing spree in the school, killing 15 people including themselves, numerous high schools around Michigan and across the country were the targets of bomb threats. While the vast majority of the bomb threats turned out to be false reports, the threats and the reactions to them apparently were very disruptive to the school districts and to the lives of the students and staff at the affected schools. Although falsely reported crimes are already illegal under the Michigan Penal Code (which includes specific provisions relating to bombings and bomb threats), some people believe that this activity could be more effectively deterred and more properly punished if criminal penalties were stiffer and courts were authorized to assess costs for emergency responses to falsely reported crimes and the prosecution of offenders.

CONTENT

Senate Bill 633 (S-3) would amend the Michigan Penal Code and Senate Bills 634 (S-2) and 635 (S-1) would amend the Code of Criminal Procedure, to revise the penalties for falsely reporting a felony and falsely reporting a criminal offense involving a bombing or threat to bomb; authorize court-ordered recovery of costs to the State and local units of government for falsely reported crimes; and revise the sentencing guidelines provisions relating to false reports of crimes.

The bills would take effect 90 days after their enactment. Senate Bill 634 (S-2) is tie-barred to Senate Bill 633.

Senate Bills 633 (S-3) and 635 (S-1) would define "local unit of government" as a city, village, township, county, local or intermediate school district, public school academy, or community college. "State"

would include a State institution of higher education.

Senate Bill 633 (S-3)

Revised Penalties

The Penal Code prohibits a person from intentionally making a false report of the commission of a crime to a member of the Michigan State Police, a sheriff or deputy sheriff, a local police officer, or any other Michigan peace officer, knowing the report to be false. A false report of a misdemeanor is a misdemeanor punishable by up to 93 days' imprisonment, a maximum fine of \$100, or both. A false report of a felony is a felony, punishable by the penalty for the falsely reported crime or up to four years' imprisonment and/or a maximum fine of \$2,000, whichever is less. The bill would retain the penalty for a falsely reported misdemeanor and delete the first sentencing option for a falsely reported felony, so that a false report of a felony would be a felony punishable by up to four years' imprisonment, a maximum fine of \$2,000, or both.

Currently, if a false report of a crime that relates to a bombing, attempted bombing, or threat to bomb is intentionally communicated to a peace officer or any other person, and the person reporting the crime knows the report to be false, the offense is a "crime" punishable by the penalty for the falsely reported crime or up to four years' imprisonment and/or a maximum fine of \$2,000, whichever is less. This applies regardless of whether the falsely reported crime is a misdemeanor or felony.

The bill would classify that offense as a felony, add falsely reporting a threat to use a "harmful device, substance, or material" to the offense, delete the first sentencing option, and add an enhanced penalty for a second or subsequent offense. Under the bill, a first offense would be a felony punishable by up to

four years' imprisonment, a maximum fine of \$2,000, or both. A second or subsequent offense would be a felony punishable by up to 10 years' imprisonment, a maximum fine of \$5,000, or both.

"Harmful device, substance, or material" would include, but not be limited to, a device, substance, or material as defined in Chapter 33 of the Penal Code, which governs bombing and explosives offenses. (Those definitions refer to various chemical, biological, and radioactive devices, substances, and materials (MCL 750.200h).)

Cost Recovery

The bill specifies that a court could order a person convicted of falsely reporting a crime to pay to the State or a local unit of government the costs of responding to the false report including, but not limited to, use of police or fire emergency response vehicles and teams.

If a person ordered to pay costs were a juvenile under the jurisdiction of the family division of circuit court, and the court determined that the juvenile was or would be unable to pay all of the costs, the court could order the parent or parents having supervisory responsibility over the juvenile at the time of the incident to pay any portion of the outstanding costs. An order for a juvenile's parent to pay would not relieve the juvenile of his or her obligation to pay costs as ordered, but the amount owed by the juvenile would be offset by parental payments. This provision would not apply to a foster parent.

If a court ordered a parent to pay costs, the court would have to take into account the parent's financial resources and the burden that payment would impose with due regard to any other moral or legal financial obligations. If the court ordered payment by a parent, it would have to provide for payment in specified installments and within a specified period.

A parent ordered to pay costs under the bill could petition the court for a modification of the amount of the costs owed by the parent or for a cancellation of any unpaid portion of the parent's obligation. The court would have to cancel all or part of the parent's obligation if the court determined that payment would impose a manifest hardship on the parent.

Senate Bill 634 (S-2)

Currently, the sentencing guidelines provisions of the Code of Criminal Procedure classify falsely reporting a bombing or threat to bomb as a Class F felony against the public order, with a statutory maximum sentence of four years' imprisonment. The bill would retain that classification for a first offense. A subsequent offense would be classified as a Class D felony against the public order, with a statutory maximum sentence of 10 years' imprisonment, as

proposed by Senate Bill 633 (S-3).

Senate Bill 635 (S-1)

The Code of Criminal Procedure lists offenses for which, as part of a sentence, a court may order the offender to reimburse the State or a local unit of government for expenses incurred in relation to that incident, including but not limited to expenses for an emergency response and expenses for prosecuting the offender. The bill would add to that list of offenses falsely reporting a crime related to bombing, attempted bombing, or threat to bomb (MCL 750.411a).

The Code also lists the expenses for which reimbursement may be ordered. The bill would add to that list the salaries, wages, or other compensation, including overtime pay, of prosecution personnel for time spent investigating and prosecuting the crime or crimes resulting in conviction. (The Code already includes similar provisions relating to law enforcement, fire department, and emergency medical service personnel.)

In addition, the bill would redefine "local unit of government" as described above. The Code presently defines the term as a city, village, township, or county, for purposes of reimbursement.

MCL 750.411a (S.B. 633)
777.16t (S.B. 634)
769.1f (S.B. 635)

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

While some may consider falsely reported crimes, including phony bomb threats, to be pranks, those actions must be taken very seriously. There is nothing innocent or humorous about them. False bomb threats undermine the security and sanctity of public places and can create an immeasurable emotional cost for those who are forced to endure them. If a school receives a bomb threat, for example, the students, teachers, and other personnel may have to be evacuated (which itself can be a dangerous situation); police may have to inspect the building and grounds with bomb-sniffing dogs; classroom time is lost, and pupils' attention may be diverted for days or weeks; counseling may be necessary; and parents might demand additional security measures.

The bills respond to a rash of false bomb threats at schools around the State after highly publicized and tragic, violent incidents occurred at several schools

across the country, most notably the killing of 15 people and the rigging of various types of bombs at Columbine High School in Colorado. By establishing more specific penalties, and providing enhanced penalties for second or subsequent offenses relating to bombings or bomb threats, the bills should serve as a deterrent to false reports of crimes. In addition, allowing a court to order cost recovery for the State and local units of government for expenses incurred in responding to a false report of a crime would place the cost for those responses exactly where it belongs--on the person who made a false report.

Legislative Analyst: P. Affholter

FISCAL IMPACT

The bills would have an indeterminate fiscal impact on State government.

Senate Bill 633 (S-3) would provide for a maximum prison term of four years and/or a fine of up to \$2,000 for a first offense and a maximum prison term of 10 years and/or a fine of up to \$5,000 for a subsequent offense, if the offense were a false report of a bombing, an attempted bombing, or a threat to bomb. In 1997, three people were committed to prison for falsely reporting a crime with an average minimum sentence of 1.3 years. However, there are no data available to determine if these individuals had committed a prior offense.

Assuming that each year three offenders are incarcerated for this offense with an average minimum sentence of 1.3 years, costs for incarceration would be about \$85,800 annually. Under the bill, if one of the offenders each year were a second-time offender and the judge sentenced the offender to a minimum sentence that was two-thirds of the maximum, the offender would serve 6.7 years and the cost for incarceration would increase to \$204,600 annually.

Senate Bill 633 (S-3) also would allow a court to require a person to pay the State or local unit of government for the costs of responding to a false report. Senate Bill 635 (S-1) would allow a court to order a person to reimburse the State or a local unit for the expenses related to a false report of a crime involving bombing, attempted bombing, or threat to bomb.

Fiscal Analyst: K. Firestone
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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.