

Senate Fiscal Agency  
P. O. Box 30036  
Lansing, Michigan 48909-7536



Telephone: (517) 373-5383  
Fax: (517) 373-1986  
TDD: (517) 373-0543

House Bill 4642 (Substitute H-2 as passed by the House)  
Sponsor: Representative Samuel Thomas III  
House Committee: Constitutional Law and Ethics  
Senate Committee: Judiciary

Date Completed: 5-26-99

### **CONTENT**

**The bill would amend the Michigan Penal Code to prohibit the use of the Internet or a computer to teach or demonstrate the use of a firearm or explosive for use in a civil disorder; and to specify penalties for unlawfully teaching or demonstrating a firearm or explosive, or unlawfully assembling with others to practice or train with a firearm or explosive.**

The Code prohibits a person from teaching or demonstrating to another individual the use, application, or construction of a firearm or an explosive or incendiary device, if the person knows, has reason to know, or intends that what is taught or demonstrated will be used in, or in furtherance of, a civil disorder. The bill would prohibit this activity either in person or through the use of any media, including the Internet, a computer, computer program, computer network, or computer system. A violation through the use of any media would occur if the communication originated and/or terminated in this State.

The bill specifies that a violation or attempted violation through the use of any media would not apply to an Internet service provider or computer network service provider who did not have prior actual knowledge that what was taught or demonstrated was intended to be used in, or would be used in, or in furtherance of, a civil disorder.

The Code also prohibits a person from assembling with one or more people for the purpose of training with, practicing with, or being instructed in the use of a firearm, or any explosive or incendiary device, if the person intends to use a firearm or device in, or in furtherance of, a civil disorder. A violation of this prohibition, or the prohibition involving teaching or demonstration, is a felony. (The Code does not specify a penalty for this offense, which means that it is punishable by imprisonment for up to four years and/or a fine of up to \$2,000.)

The bill specifies that a violation would be a felony punishable by imprisonment for up to four years and/or a fine of up to \$2,500, except as follows:

- If the firearm, explosive, or incendiary device were used in the commission of a civil disorder, the offense would be punishable by imprisonment for up to 10 years and/or a maximum fine of \$5,000.
- If the firearm, explosive, or incendiary device were used in the commission of a civil disorder and the use of the firearm, explosive, or device caused death or serious impairment of a body function to another individual, the offense would be punishable by imprisonment for up to 20 years and/or a maximum fine of \$5,000.

The bill specifies that this section of the Code would not prohibit a person from being charged with, convicted or, or sentenced for any other violation of law committed by that individual while violating this section. Also, a term of imprisonment imposed for a violation of this section could run consecutively to any prison term imposed for another violation arising from the same transaction.

"Serious impairment of a body function" would include, but not be limited to, one or more of the following:

- Loss of a limb or use of a limb.

- Loss of a hand, foot, finger, or thumb, or use of a hand, foot, finger, or thumb.
- Loss of an eye or ear or use of an eye or ear.
- Loss or substantial impairment of a bodily function.
- Serious visible disfigurement.
- A comatose state lasting more than three days.
- Measurable brain damage or mental impairment.
- A skull fracture or other serious bone fracture.
- Subdural hemorrhage or subdural hematoma.

The bill would take effect August 1, 1999.

MCL 750.528a

Legislative Analyst: S. Lowe

### **FISCAL IMPACT**

House Bill 4642 (H-2) would have an indeterminate fiscal impact on State government.

In 1997, no one was convicted of teaching or demonstrating how to build an explosive device. There are no data available to indicate how many more people would be convicted of teaching or demonstrating how to build a firearm or explosive device with the inclusion of media such as the Internet. The penalty for conviction under this section would result in a maximum sentence of four years in prison and/or a fine \$2,500.

In addition, there are no data to indicate how many offenders would be convicted of demonstrating how to build an explosive device or firearm that was used in the commission of civil disorder. The maximum penalty for this crime would be 10 years and/or a fine of \$5,000, or 20 years and/or \$5,000 if the crime resulted in death or serious impairment of a body function.

Fiscal Analyst: K. Firestone

S9900\4642sa

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.