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SFA



BILL ANALYSIS

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Senate Bill 996 (as enrolled)
House Bill 5507 (as enrolled)
Sponsor: Senator Dianne Byrum (S.B. 996)
Representative Gary Woronchak (H.B. 5507)
Senate Committee: Judiciary
House Committee: Criminal Justice

PUBLIC ACT 123 of 2002
PUBLIC ACT 135 of 2002

Date Completed: 1-27-03

CONTENT

Senate Bill 996 and House Bill 5507 amended the Code of Criminal Procedure and the Michigan Penal Code, respectively, to increase penalties for poisoning violations and include the increased penalties in the sentencing guidelines. The bills were tie-barred to each other and took effect on April 22, 2002.

Senate Bill 996

The bill amended the Code of Criminal Procedure to replace the previous sentencing guideline designations for willfully poisoning food, drink, medicine, or a public water supply, or maliciously making a false report of a poisoning, as shown in Tables 1 and 2.

Table 1

Former Poisoning Guidelines			
Crime	Class	Category	Maximum Sentence
Poisoning	E	Person	5 years
Poisoning in amount that may cause death or that causes great bodily injury	A	Person	Life
False report	H	Public Safety	2 years

Table 2

Poisoning Guidelines under S.B. 996			
Crime	Class	Category	Maximum Sentence
Poisoning	C	Public Safety	15 years
Poisoning causing property damage	B	Property	20 years
Poisoning causing injury	A	Person	25 years
Poisoning causing serious impairment	A	Person	Life
False report of poisoning	F	Public Order	4 years
False report w/ prior conviction	D	Public Safety	10 years

House Bill 5507

The bill amended the Michigan Penal Code to increase the penalties for poisoning and falsely reporting a poisoning. Previously, it was a felony punishable by up to five years' imprisonment if a person willfully mingled a poison or harmful substance with a food, drink, nonprescription medicine, or pharmaceutical product, or willfully placed a poison or harmful substance in a spring, well, reservoir, or public water supply, if he or she knew or should have known that the food, drink, medicine, pharmaceutical product, or water might be ingested or used by a person to his or her injury. If the violation involved an amount of poison or harmful substance that could cause death or if the violation resulted in great bodily injury, the Code required punishment by imprisonment for life or any term of years.

The bill deleted those penalties. Under the bill, a violation is a felony punishable by up to 15 years' imprisonment and/or a maximum fine of \$10,000. If the violation results in damage, injury, or death, it is punishable as follows:

- Damage to property of another: up to 20 years' imprisonment and/or a maximum fine of \$15,000.
- Physical injury to another: up to 25 years' imprisonment and/or a maximum fine of \$20,000.
- Serious impairment of a body function to another: up to life imprisonment and/or a maximum fine of \$25,000.
- Death of another: mandatory life without parole and a maximum fine of \$40,000.

"Serious impairment of a body function" means that term as defined in the Michigan Vehicle Code. The Vehicle Code specifies that serious impairment of a body function includes, but is not limited to, one or more of the following:

- Loss of a limb or the use of a limb.
- Loss of a foot, hand, finger, or thumb or the use of a foot, hand, 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 that lasts for more than three days.

- Measurable brain or mental impairment.
- A skull fracture or other serious bone fracture.
- Subdural hemorrhage or subdural hematoma.
- Loss of an organ.

Previously, it was a felony punishable by up to two years' imprisonment if a person maliciously informed another person that a poison or harmful substance had been or would be placed in a food, drink, nonprescription medicine, pharmaceutical product, spring, well, reservoir, or public water supply, knowing that the information was false and likely would be disseminated to the public.

The bill specifies, instead, that a violation is a felony punishable by up to four years' imprisonment and/or a maximum fine of \$2,000. If the person has previously been convicted of this offense, the penalty is a maximum of 10 years' imprisonment and/or a maximum fine of \$5,000.

Additionally, the bill specifies that a court may order a term of imprisonment imposed for either poisoning or falsely reporting a poisoning to be served consecutively to a term of imprisonment imposed for any other violation arising out of the same transaction. The bill also states that this section of the Code does not prohibit an individual from being charged with, convicted of, or punished for any other violation of law committed by that individual while violating this section.

MCL 777.16v (S.B. 996)
750.436 (H.B. 5507)

Legislative Analyst: Julie Koval

FISCAL IMPACT

The bills will have an indeterminate fiscal impact on State and local government. According to the Department of Corrections Statistical Report, nine offenders were convicted of poisoning food, drink, or a well in 2000. The bills may add to criminal justice costs by distinguishing between injury and serious impairment, adding new penalties for causing property damage and for falsely reporting with a previous conviction, and changing the crime classes for existing crimes to those with a longer maximum term in the minimum sentencing range. Table 3 shows

both the former and the new sentencing ranges for each of the crimes. Local jurisdictions will incur costs for housing offenders sentenced for less than a year at a cost that varies by county from \$27 to \$65 a day. The State will incur the cost of probation at \$4.38 per day as well as the cost of incarceration in a State facility, at an average annual cost of \$25,000.

Table 3

Sentencing Guideline Minimum (in Months)		
Offenses	Former Ranges	New Ranges
Poisoning	(0-3) to (24-38)	(0-11) to (62-114)
Poisoning causing property damage	n/a	(0-18) to (117-160)
Poisoning causing injury	(21-35) to (270-450 or life)	(21-35) to (270-300)
Poisoning causing serious impairment	n/a	(21-35) to (270-450 or life)
False report of poisoning	(0-1) to (5-17)	(0-3) to (17-30)
False report with prior conviction	n/a	(0-6) to (43-76)

Fiscal Analyst: Bethany Wicksall

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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.