



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

**BILL ANALYSIS**

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

Senate Bills 918 and 919 (as introduced 1-15-04)

Sponsor: Senator Alan Sanborn (S.B. 918)

Senator Alan L. Cropsey (S.B. 919)

Committee: Judiciary

Date Completed: 5-3-04

CONTENT

Senate Bill 918 would amend the Michigan Penal Code to prohibit and provide criminal penalties for photographing or otherwise recording a visual image of the undergarments worn by an individual, an individual's genitalia or buttocks, or a female's breasts without consent, if the individual had a reasonable expectation of privacy.

Senate Bill 919 would amend the Code of Criminal Procedure to include a felony offense under Senate Bill 918 in the sentencing guidelines.

The bills would take effect 90 days after their enactment. Senate Bill 919 is tie-barred to Senate Bill 918.

Senate Bill 918

The bill would prohibit a person from doing either of the following under circumstances in which an individual would have a reasonable expectation of privacy, without his or her consent or, if the individual were a child or were legally incapacitated, without the consent of someone having lawful authority to provide consent:

- Photographing or otherwise recording a visual image of the undergarments worn by the individual.
- Photographing or otherwise recording a visual image of the individual's genitalia or buttocks or, if the individual were female, of her breasts.

A violation or attempted violation would be a misdemeanor punishable by up to 90 days' imprisonment, a maximum fine of \$100, or both. A violation for commercial gain, or a second or subsequent violation, would be a felony punishable by up to four years' imprisonment, a maximum fine of \$2,000, or both.

Senate Bill 919

Under the bill, recording a visual image of undergarments, genitalia, or buttocks or a female's breasts either for commercial gain or as a second or subsequent offense would be designated in the sentencing guidelines as a Class F felony against the public order with a statutory maximum sentence of four years' imprisonment.

Proposed MCL 750.539j (S.B. 918)
MCL 777.16z (S.B. 919)

Legislative Analyst: Patrick Affholter

FISCAL IMPACT

The bills would have an indeterminate fiscal impact on State and local government. There are no data to indicate how many additional offenders would be convicted of the offenses proposed by the bills. Under sentencing guidelines, a Class F offense has a recommended minimum sentence range of 0-3 months to 17-30 months. Local units of government incur the cost misdemeanor probation as well as the cost of incarceration in a local facility, both of which vary by county. The State incurs the cost of felony probation at an average annual cost of \$1,800, as well as the cost of incarceration in a State facility at an average annual cost of \$28,000. For each offender convicted of the proposed Class F offense, sentenced to prison, and given the longest recommended minimum sentence, it would cost the State \$70,000.

Fiscal Analyst: Bethany Wicksall

S0304\sb918sa

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.