

Legislative Analysis



UPDATE LAW THAT PROHIBITS CUTTING TELEGRAPH AND TELEPHONE LINES

Mitchell Bean, Director
Phone: (517) 373-8080
<http://www.house.mi.gov/hfa>

House Bills 5043 and 5044

Sponsor: Rep. Tonya Schuitmaker

Committee: Judiciary

Complete to 10-18-05

A SUMMARY OF HOUSE BILLS 5043 AND 5044 AS INTRODUCED 7-6-05

Currently, it is against the law to willfully and maliciously cut or tap telegraph or telephone lines or wire or cable in order to read or copy messages or sporting, commercial, or other news reports; use the same without authorization; prevent, obstruct, or delay the sending, conveyance, or delivery of authorized communications; or aid, employ, or conspire with another to do any of the prohibited acts. A violation is punishable by up to two years imprisonment or a fine of not more than \$1,000.

House Bill 5043 would amend the Michigan Penal Code (MCL750.540) to eliminate the current prohibition detailed above and replace it with updated language to include forms of communication using the Internet, computers, and computer networks. The new language would prohibit a person from doing any of the following:

- Willfully and maliciously cut, break, disconnect, interrupt, tap, or make unauthorized connections with any medium of communication. This would include the Internet or a computer; computer program, system, or network; or a telephone.
- Willfully and maliciously read or copy any message from any telegraph, telephone line, wire, or cable; computer network, program, or system; or telephone or other electronic medium of communication that the person accessed without authorization.
- Make unauthorized use of any medium of communication.
- Willfully and maliciously prevent, obstruct, or delay by any means the sending, conveyance, or delivery of an authorized communication by or through any telegraph or telephone line, cable, wire, or any medium of communication.

The penalty would remain the same except that a court could impose jail time, a fine, or both. In addition, the bill would specify that a person could still be charged with, convicted of, or punished for any other violation of law committed while violating or attempting to violate these prohibitions.

The bill would also define the terms "computer", "computer network", "computer program", "computer system", "device", and "Internet".

House Bill 5044 would amend the sentencing guidelines portion of the Code of Criminal Procedure (MCL 777.16z) to specify that damaging, destroying, or using telephone or computer equipment without authorization would have a two-year maximum term of imprisonment.

FISCAL IMPACT:

The bills could increase state and local correctional costs, depending on how they affected numbers of felony convictions and the sanctions imposed for them. The state would bear any increased costs of felony probation or incarceration in a state facility; field supervision of parolees and probationers averages about \$5.42 per day, or \$1,977 annually, while the average annual cost of prison incarceration is about \$29,000. Any increased costs due to jail sentences would fall to the county. Any increases in penal fine revenues would benefit local libraries, which are the constitutionally-designated recipients of those revenues.

In 2003, the most recent year for which data are available, there were 105 sentences imposed for violation of the current law. Of those sentences, 17 were for prison, 61 were for probation, 24 were for jail, and 3 were "other" (which could be, for example, a commitment to the Department of Corrections (MDOC) under the Holmes Youthful Trainee Act). According to the MDOC, there were 9 commitments to the department in 2003 for violation of the current law. Of those, 3 carried minimum sentences of one year, 5 had sentences of 1.5 years, and 1 person was sentenced to two years.

Legislative Analyst: Susan Stutzky
Fiscal Analyst: Marilyn Peterson

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