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Senate Bills 454 and 455 (as introduced 5-3-06)
Sponsor: Senator Valde Garcia
Committee: Judiciary

Date Completed: 10-12-06

CONTENT

The bills would amend the Michigan Penal Code and the Code of Criminal Procedure to extend increased criminal penalties to embezzlement from nonprofit charitable organizations.

Senate Bill 455 is tie-barred to Senate Bill 454. The bills are described in detail below.

Senate Bill 454

Under the Penal Code, if an agent, servant, or employee embezzles money or personal property valued at \$200 or more but less than \$1,000, or embezzles less than \$200 and has a prior conviction for embezzlement, that person is guilty of a misdemeanor punishable by imprisonment for up to one year; a maximum fine of \$2,000 or three times the value of the embezzled money or property, whichever is greater; or both imprisonment and a fine.

Under the bill, a person who embezzled money or property worth less than \$200 from a nonprofit organization organized under Section 501(c)(3) of the Internal Revenue Code would be subject to the same penalty.

Under the Code, if the money or personal property embezzled has a value of at least \$1,000 but less than \$20,000, or if its value is at least \$200 but less than \$1,000 and the person has a prior conviction for embezzlement, then the person is guilty of a felony punishable by up to five years' imprisonment; a maximum fine of \$10,000 or three times the value of the embezzled money or property, whichever is greater; or both imprisonment and a fine.

Under the bill, that penalty also would apply in the following cases:

- The person embezzled money or property worth at least \$200 but less than \$1,000 from a nonprofit organization organized under Section 501(c)(3).
- The person embezzled money or property worth less than \$200 from a 501(c)(3) nonprofit organization and had a prior conviction for embezzlement.

Under the Code, if the money or personal property embezzled has a value of \$20,000 or more, or if its value is at least \$1,000 but less than \$20,000 and the person has two or more prior convictions for embezzlement, then the person is guilty of a felony punishable by imprisonment for up to 10 years; a maximum fine of \$15,000 or three times the value of the embezzled money or property, whichever is greater; or both imprisonment and a fine.

Under the bill, that penalty also would apply in the following cases:

- The person embezzled money or property worth at least \$1,000 but less than \$20,000 from a nonprofit organization organized under Section 501(c)(3).
- The person embezzled money or property worth at least \$200 but less than \$1,000 from a 501(c)(3) nonprofit organization and had two or more prior convictions for embezzlement.

Senate Bill 455

The bill would amend the Code of Criminal Procedure to include felony violations for embezzlement from a nonprofit organization in the sentencing guidelines.

The sentencing guidelines provide that embezzlement by an agent of \$1,000 to \$20,000, or embezzlement with prior convictions, is a Class E property felony subject to a statutory maximum of five years' imprisonment. Under the bill, embezzlement by an agent of \$200 to \$1,000 from a charitable organization would be subject to the same classification.

Under the guidelines, embezzlement by an agent of \$20,000 or more, or of \$1,000 to \$20,000 with prior convictions, is a Class D property felony subject to a statutory maximum sentence of 10 years' imprisonment. Under the bill, embezzlement of \$1,000 to \$20,000 from a charitable organization would be subject to the same classification.

MCL 750.174 (S.B. 454)
777.16i (S.B. 455)

Legislative Analyst: Curtis Walker

FISCAL IMPACT

The bills would have an indeterminate fiscal impact on State and local government. There are no data to indicate how many offenders would be convicted of embezzling from a nonprofit corporation. In 2003, 578 offenders were convicted of felony embezzlement and 122 offenders were convicted of attempting to commit felony embezzlement. Of these 700 offenders, 78 were sentenced to prison, 519 were sentenced to probation, 32 were sentenced to jail, and 71 received other types of sentences, such as a delayed or suspended sentence. There are no data to indicate the number of misdemeanor convictions for embezzlement. An offender convicted of the Class D offense under the bills would receive a sentencing guidelines minimum sentence range of 0-6 months to 43-76 months. An offender convicted of the Class E offense under the bills would receive a sentencing guidelines minimum sentence range of 0-3 months to 24-38 months. To the extent that the bills would result in increased sentences to incarceration or increased time spent incarcerated, local governments would incur increased costs of incarceration in local facilities, which vary by county. The State would incur increased costs of felony probation at an annual average cost of \$2,000, as well as increased costs of incarceration in a State facility at an average annual cost of \$30,000. Additional penal fine revenue would benefit public libraries.

Fiscal Analyst: Lindsay Hollander

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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.