



Senate Fiscal Agency
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BILL ANALYSIS



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House Bill 5043 (Substitute S-1 as reported)
House Bill 5044 (Substitute S-1 as reported by the Committee of the Whole)
Sponsor: Representative Tonya Schuitmaker
House Committee: Judiciary
Senate Committee: Judiciary

CONTENT

House Bill 5043 (S-1) would amend the Michigan Penal Code to delete current prohibitions against interfering with telegraph and telephone communications and establish new prohibitions against interfering with any electronic medium of communication. The bill would take effect on June 1, 2006.

The Penal Code prohibits a person from willfully or maliciously cutting, breaking, tapping, or making any connection with any telegraph or telephone line, wire, or cable; reading or copying any message from an unlawfully cut or tapped telegraph or telephone line, wire, or cable; maliciously preventing, obstructing, or delaying the sending, conveyance, or delivery of any authorized communication by or through any telegraph or telephone line, cable, or wire under the control of any telegraph or telephone company doing business in Michigan; or willfully and maliciously aiding, agreeing with, employing, or conspiring with any other person to do any of the above. A violation is a misdemeanor punishable by up to two years' imprisonment, a maximum fine of \$1,000, or both.

The bill, instead, would prohibit a person from willfully and maliciously doing any of the following:

- Cutting, breaking, disconnecting, interrupting, tapping, or making any unauthorized connection with any electronic medium of communication, including a telephone, the internet, a computer, or a computer program, system, or network.
- Reading or copying any message from any telegraph, telephone line, wire, cable, computer network, computer program, or computer system, or telephone or other electronic medium of communication that the person gained access to without authorization.
- Making unauthorized use of any electronic medium of communication.
- Preventing, obstructing, or delaying by any means the sending, conveyance, or delivery of any authorized communication, by or through any telegraph or telephone line, cable, wire, or any electronic medium of communication.

A violation of the bill would be a felony punishable by up to two years' imprisonment and/or a maximum fine of \$1,000. If the incident to be reported resulted in injury to or the death of any person, the violation would be punishable by up to four years' imprisonment and/or a maximum fine of \$5,000.

House Bill 5044 (S-1) would amend the sentencing guidelines in the Code of Criminal Procedure to classify damaging, destroying, using, or obstructing the use of an electronic medium of communication as a Class H felony against the public order, with a statutory

maximum sentence of two years' imprisonment (the classification that currently applies to tapping or cutting telephone lines). A violation resulting in injury or death would be a Class F felony against a person, with a statutory maximum sentence of four years' imprisonment.

The bill is tie-barred to House Bill 5043, and would take effect on June 1, 2006.

MCL 750.540 (H.B. 5043)
777.16z (H.B. 5044)

Legislative Analyst: Patrick Affholter

FISCAL IMPACT

The bills would have an indeterminate fiscal impact on State and local government. Convictions under the current law have increased significantly since 2000. In 2000, four offenders were sentenced to probation under the current law. (Two of the offenders were convicted of attempting the offense.) Convictions rose to 41 in 2001 and 73 in 2002. In 2003, 105 offenders were sentenced under the current law, resulting in 17 prison sentences, 61 probation sentences, 24 jail sentences, and three other sentences. However, there are no data to indicate whether the same pattern of increases in convictions would occur with the proposed inclusion of additional communication equipment, or how many of the sentences would be for prison, probation, jail, or other sanctions. An offender convicted of the Class H offense would receive a sentencing guidelines minimum sentence range of 0-1 month to 5-17 months. An offender convicted of the Class F offense would receive a sentencing guidelines minimum sentence range of 0-3 months to 17-30 months. Local governments would incur the costs of incarceration in local facilities, which vary by county. The State would incur the cost of felony probation at an annual average cost of \$2,000, as well as the cost of incarceration in a State facility at an average annual cost of \$30,000. Additional penal fine revenue would benefit public libraries.

Date Completed: 2-9-06

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.