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House Bill 5657 (Substitute H-1 as passed by the House)
House Bill 5658 (as passed by the House)
Sponsor: Representative George Cushingberry
House Committee: Local Government and Urban Policy
Senate Committee: Judiciary

Date Completed: 12-4-06

CONTENT

House Bill 5657 (H-1) would amend the Public Health Code to include libraries within the Code's drug-free zones, by extending current enhanced penalties for possession and delivery of certain controlled substances within 1,000 feet of school property to those offenses within 1,000 feet of a library.

House Bill 5658 would amend the sentencing guidelines provisions in the Code of Criminal Procedure to include reference to a library in the description of the drug-free school zone offense.

House Bill 5658 is tie-barred to House Bill 5657.

House Bill 5657 (H-1)

Under the Public Health Code, an individual 18 years of age or older who violates Section 7401(2)(a)(iv) of the Code by delivering less than 50 grams of a Schedule 1 or 2 controlled substance that either is a narcotic drug or is described in Section 7214(a)(iv) (cocaine and other coca derivatives) to another person on or within 1,000 feet of school property must be punished by imprisonment for at least two years, but not more than three times the punishment otherwise authorized for that violation. In addition, the individual may be fined up to three times the amount otherwise authorized.

Under the bill, those penalties also would apply to the delivery of the specified controlled substances within 1,000 feet of a library.

The Code provides that an individual 18 years of age or older who violates Section 7401(2)(a)(iv) by possessing with intent to deliver to another person on or within 1,000 feet of school property less than 50 grams of a Schedule 1 or 2 controlled substance that either is a narcotic drug or is described in Section 7214(a)(iv) must be punished by a term of imprisonment of not less than two years and not more than twice the sentence otherwise authorized for the violation. In addition, the individual may be fined up to three times the amount otherwise authorized.

Under the bill, those penalties also would apply to an individual possessing with intent to deliver one of the specified controlled substances within 1,000 feet of a library.

(Section 7401 of the Code prohibits a person from manufacturing, creating, delivering or possessing with intent to manufacture, create, or deliver a controlled substance, except as authorized by the Code. Under Section 7401(2)(a)(iv), a person who violates the section regarding a Schedule 1 or 2 controlled substance or a substance described in Section 7214(a)(iv) in an amount less than 50 grams of any mixture containing that substance is guilty of a felony punishable by imprisonment for up to 20 years or a maximum fine of \$25,000, or both.

Section 7214(a)(iv) classifies as a Schedule 2 substance coca leaves and any salt, compound, derivative, or preparation of coca leaves that is chemically equivalent to or identical with any of these substances. The substances do not include decocainized coca leaves or extraction of coca leaves that do not contain cocaine or ecgonine. The substances include cocaine, its salts, stereoisomers, and salts of stereoisomers.)

House Bill 5658

The bill would amend the Code of Criminal Procedure to include reference to a library in the sentencing guidelines description of the drug-free school zone offense. The violation is categorized as a controlled substance felony with a variable statutory maximum penalty.

MCL 333.7410 (H.B. 5657)
777.18 (H.B. 5658)

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 the drug-free zone offenses if they were extended to libraries. In 2004, 16 offenders were convicted of committing these controlled substances violations on school property, and one of attempting the offense. Of these 17 offenders, 12 were sentenced to prison, three were sentenced to probation, and two were sentenced to jail. To the extent that the bills would result in increased incarceration time, local governments would incur the costs of incarceration in local facilities, which vary by county. The State would incur the cost of incarceration in a State facility at an average annual cost of \$31,000. 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.