

Legislative Analysis



PROHIBIT TAMPERING WITH OR REMOVING PUBLIC SAFETY DEVICE

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Senate Bill 357 as passed by the Senate
Senate Bill 358 with committee amendment
Sponsor: Sen. Wayne Kuipers
House Committee: Judiciary
Senate Committee: Judiciary

First Analysis (3-17-08)

BRIEF SUMMARY: The bills would specifically prohibit unlawful tampering with, taking, or removal of a government-owned public safety device.

FISCAL IMPACT: The bills would have an indeterminate fiscal impact on state and local governmental units. See a detailed discussion later in the analysis.

THE APPARENT PROBLEM:

After 17 year-old Andy Fox was swept off a pier in Grand Haven and drowned, perhaps in part because the life ring that should have been available on the dock had been stolen, legislation was enacted to make it a crime to tamper with, take, or remove a marine safety device owned or maintained by the state or a local governmental unit (Public Act 233 of 2006). Some people believe a similar measure should apply to other public safety devices, such as first aid kits, AEDs (automated electronic defibrillators), fire extinguishers, and communication devices used to report emergencies (such as those found in some public parking lots, on park trails, and highway call-boxes).

THE CONTENT OF THE BILLS:

Senate Bill 358 would add a new section to the Michigan Penal Code (MCL 750.498c) to specifically prohibit the unlawful tampering with, taking, or removal of a public safety device owned or maintained by the state or a local municipality. The bill's penalties would apply to a person who knew or had reason to know that the device was a public safety device.

"Public safety device" would mean one of the following:

- A device to render emergency medical assistance to an individual including a first aid kit, an oxygen supply kit, a cardiac defibrillator, or a stretcher.
- A device to prevent or suppress a fire including a fire detector, fire alarm, or fire extinguisher.
- Equipment designed or intended to be used to communicate the existence of an emergency.

A violation would be a misdemeanor punishable by imprisonment for not more than 93 days or a fine of not more than \$1,000, or both.

If the unlawful act rendered the device unavailable or unusable for rescue when needed, the penalty would increase. If the violation were the proximate cause of serious impairment, as defined by the Michigan Vehicle Code, the person would be guilty of a felony punishable by imprisonment for not more than 5 years and/or a fine of not less than \$1,000 or more than \$5,000. A violation that was the proximate cause of the death of another person would be a felony punishable by imprisonment for not more than 15 years and/or a fine of not less than \$2,500 or more than \$10,000.

Senate Bill 357 would amend the corresponding section of the sentencing guidelines within the Code of Criminal Procedure (MCL 777.16x). The bill would specify that tampering with, taking, or removing a public safety device without authority causing serious impairment would be a Class E felony against a person with a 5-year maximum term of imprisonment and causing death would be a Class C felony against a person with a 15-year maximum term of imprisonment.

HOUSE COMMITTEE ACTION:

The committee adopted an amendment to include equipment designed or intended to be used to communicate the existence of an emergency.

FISCAL INFORMATION:

The bills' fiscal impact on state and local correctional systems would depend on how they affected the numbers of criminal convictions and severity of sentences. There are no data to indicate how many people might be convicted under the bills. If the offender caused serious impairment of another person, the offense would be a Class E felony; exclusive of sentences for habitual offenders, sentencing guidelines recommended minimum sentence ranges for Class E offenses vary from 0-3 months (for which a nonprison sanction is required) to 24-38 months (for which a prison sentence is mandated). If the action caused the death of another, the offense would be a Class C offense for which the recommended minimum sentence would vary from 0-11 months (for which a nonprison sanction is required) to 62-114 months (for which a prison sentence is mandated).

To the extent that Senate Bill 358 increased the number of misdemeanor sentences, it could increase local costs of jail incarceration or misdemeanor probation supervision, both of which vary with jurisdiction. To the extent that the bill increased the number of felony sentences, the state could incur increased costs of prison incarceration or felony probation supervision. The average annual cost of prison incarceration is about \$32,000 per prisoner, and the average annual cost of parole and probation supervision is about \$2,000 per supervised offender.

Any increase in penal fine revenues could benefit local libraries, which are the constitutionally-designated recipients of those revenues.

ARGUMENTS:

For:

The bills mirror the 2006 legislation that criminalized the taking, removal, or tampering with of publicly-owned marine safety equipment such as life rings that were disappearing at an alarming rate from beaches, piers, and docks around the state. Senate Bills 357 and 358 would similarly criminalize the taking, removal, or tampering with public safety devices owned by the state or local governments. In an accident, or in case of a heart attack, those coming to the aid of a victim need to trust that the needed safety equipment—whether a first aid kit, AED to restore a healthy heartbeat, fire extinguisher to suppress a fire, or emergency call box—is available and in working order. Minutes matter in emergency, and anyone deliberately disabling or stealing these devices should face criminal penalties. The bills would appropriately establish criminal penalties that increase with the seriousness of the impact on the victim of the missing or disabled equipment.

For:

The House Judiciary Committee included in the definition of "public safety devices" equipment used to make calls in emergencies, for example, the call boxes located along stretches of public highways. This links these bills with a separate package of bills addressing the problem of thieves targeting various infrastructures and equipment in search of copper wire. Whether taken or disabled for a prank or for copper, a person should face criminal penalties since their actions could seriously affect the well-being or even the lives of others.

POSITIONS:

The Michigan State Police indicated support for the bills. (3-12-08)

The County of Oakland, Office of the Sheriff supports the bills. (3-11-08)

The Institute of Scrap Recycling Industries indicated support for the bills. (3-12-08)

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■ This analysis was prepared by nonpartisan House staff for use by House members in their deliberations, and does not constitute an official statement of legislative intent.