



Senate Fiscal Agency
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**BILL ANALYSIS**

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Senate Bill 291 (Substitute S-2 as reported by the Committee of the Whole)
Senate Bill 292 (as reported without amendment)
Sponsor: Senator Roger Kahn, M.D.
Committee: Judiciary

CONTENT

Senate Bill 291 (S-2) would amend the Michigan Penal Code to establish a felony penalty for an individual who committed or attempted to commit a felony for which his or her gang membership or association provided the motive, means, or opportunity.

If an individual who was an associate or a member of a gang committed or attempted to commit a felony, and his or her association or membership in the gang provided the motive, means, or opportunity to commit the felony, the individual would be guilty of a felony punishable by imprisonment for up to 20 years. A sentence imposed under the bill would be in addition to the sentence imposed for the conviction of the underlying felony, or the attempt to commit the underlying felony, and would have to be served consecutively to and preceding any term of imprisonment imposed for the underlying felony or attempt.

"Gang" would mean an ongoing organization, association, or group of at least five people that identifies itself by all of the following:

- A unifying mark, manner, protocol, or method of expressing membership, including a common name, sign or symbol, means of recognition, geographical or territorial sites, or boundary or location.
- An established leadership or command structure.
- Defined membership criteria.

"Gang member" or "member of a gang" would mean a person who belongs to a gang or who knowingly performs, aids, or abets the gang in the commission of a felony or felonies.

The bill would take effect 90 days after its enactment.

Senate Bill 292 would amend the Code of Criminal Procedure to include the proposed offense in the sentencing guidelines. Committing a gang membership felony would be a Class B felony against public order with a statutory maximum sentence of 20 years' imprisonment. The bill is tie-barred to Senate Bill 291.

Proposed MCL 750.411u (S.B. 291)
MCL 777.16t (S.B. 292)

Legislative Analyst: Patrick Affholter

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 proposed felony related to one's gang membership. An offender convicted of the Class B offense under the

bills would receive a sentencing guidelines minimum sentence range of 0-18 months to 117-160 months. To the extent that the bills resulted in increased incarceration time, local governments would incur increased 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 \$33,000.

Date Completed: 2-20-08

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.