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BILL ANALYSIS

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Senate Bills 291 and 292 (as introduced 2-28-07)
Sponsor: Senator Roger Kahn, M.D.
Committee: Judiciary

Date Completed: 2-8-08

CONTENT

Senate Bill 291 would amend the Michigan Penal Code to establish felony penalties for an individual who committed a felony for which his or her gang membership or association provided the motive, means, or opportunity. Senate Bill 292 would amend the Code of Criminal Procedure to include the proposed offense in the sentencing guidelines.

Senate Bill 292 is tie-barred to Senate Bill 291.

Senate Bill 291

If an individual who was an associate or a member of a gang committed 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 at least two years but not more than 20 years. If the individual had one prior conviction for violating the bill, the minimum term of imprisonment would be five years, and if he or she had two prior convictions, the minimum term would be 10 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 could be ordered to be served consecutively to and preceding any term of imprisonment imposed for the underlying felony or attempt.

"Gang" would mean a group of individuals, including individuals under 18 years of age, working to unlawful or antisocial ends.

Senate Bill 292

Committing a gang membership felony would be a Class B felony against public order with a statutory maximum sentence of 20 years' imprisonment.

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.

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.