



Senate Fiscal Agency
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BILL



ANALYSIS

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Senate Bill 713 (as reported without amendment)
Sponsor: Senator Roger Kahn, M.D.
Committee: Judiciary

(as enrolled)

Date Completed: 10-29-09

RATIONALE

Public Act 563 of 2008 amended the Michigan Penal Code to prohibit and provide felony penalties for gang recruitment and retaliation for withdrawal from a gang. Public Act 562 of 2008 enacted sentencing guidelines designations for those offenses. These revisions took effect on April 1, 2009. Also on that date, however, Public Acts 564 and 565 of 2008 took effect. Public Act 564 amended the Penal Code to establish felony penalties for a person who commits a felony for which his or her gang membership or association provides the motive, means, or opportunity. Public Act 565, which included a sentencing guidelines designation for that felony, amended the same section of the Code of Criminal Procedure as Public Act 562, but Public Act 565 did not include the sentencing guidelines designations enacted in Public Act 562. Consequently, the sentencing guidelines designations for gang recruitment and retaliation for withdrawal from a gang were deleted from the Code of Criminal Procedure immediately after they were enacted. It has been suggested that those sentencing guidelines designations should be re-enacted.

CONTENT

The bill would amend the Code of Criminal Procedure to include in the sentencing guidelines the felonies of gang recruitment and retaliation for withdrawal from a gang.

Gang recruitment would be a Class E felony against a person, with a statutory maximum sentence of five years' imprisonment. Retaliation for withdrawal from a gang would be a Class B felony against a person, with a

statutory maximum sentence of 20 years' imprisonment.

MCL 777.16t

ARGUMENTS

(Please note: The arguments contained in this analysis originate from sources outside the Senate Fiscal Agency. The Senate Fiscal Agency neither supports nor opposes legislation.)

Supporting Argument

The bill simply would re-enact sentencing guidelines provisions for two new gang-related felonies that were enacted late last year and took effect on April 1, 2009. Because a subsequent bill amending the same section of the Code of Criminal Procedure took effect immediately afterward but did not include those sentencing guidelines, they were deleted from the Code. The bill would resolve this situation.

Legislative Analyst: Patrick Affholter

FISCAL IMPACT

The bill would have an indeterminate fiscal impact on State and local government. There are no data to indicate how many offenders will be convicted of the new offenses. An offender convicted of the Class E gang recruitment offense would receive a sentencing guidelines minimum sentence range of 0-3 months to 24-38 months, with a statutory maximum of five years. An offender convicted of the Class B retaliation for withdrawal from a gang offense would receive a sentencing guidelines minimum sentence range of 0-18 months to 117-160 months, with a statutory maximum of 20

years. 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 \$34,000. Any additional penal fine revenue collected under these classifications would benefit public libraries.

Fiscal Analyst: Matthew Grabowski

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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.