



Senate Fiscal Agency
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BILL



ANALYSIS

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Senate Bill 949 (as passed by the Senate)
Sponsor: Senator Randy Richardville
Committee: Senior Citizens and Veterans Affairs

Date Completed: 1-12-10

RATIONALE

Vandalizing a memorial or burial site is a particularly objectionable act, in the opinion of many people. The Michigan Penal Code includes misdemeanor and felony penalties (depending on the amount of damage and/or prior convictions) for damaging or destroying a gravestone or other memorial and other structures or landscaping surrounding a place of burial. Reportedly, there have been recent acts of vandalism at war memorials or monuments, and some people believe that those structures should be specifically included in the current prohibitions. Also, it has been suggested that the maximum fine for minor damage to memorials or grave markers may be too lenient and should be increased, and that certain community service requirements should be imposed if the damaged property is a war monument or memorial.

- **Include community service in the penalties, in cases in which the total damage was less than \$1,000.**
- **Require the community service to be performed in a veterans home or for a veterans service organization, if the damaged property were a war memorial or war monument.**

The Penal Code prohibits a person, other than the burial right owner or a person having care, custody, or control of a cemetery, from willfully destroying, mutilating, defacing, injuring, or removing a tomb, monument, gravestone, or other structure or thing placed or designed for a memorial of the dead, or a fence, railing, curb, or other thing intended for the protection or for the ornament of any tomb, monument, gravestone, or other structure, or any other enclosure for the burial of the dead, or willfully destroying, mutilating, removing, cutting, breaking, or injuring any tree, shrub, or plant within such an enclosure. The bill would include a war memorial and war monument in that provision.

The Code includes graduated penalties for a violation, based on the monetary value of the total damage and the offender's prior convictions for committing or attempting to commit the offense, as shown in Table 1.

CONTENT

The bill would amend the Michigan Penal Code to do the following:

- **Extend the prohibition against and penalties for damaging or destroying a tomb or memorial to a war memorial or war monument.**
- **Increase the maximum fines for a violation, in cases in which the total damage was less than \$1,000.**

Table 1

Damage	Prior Convictions	Offense	Maximum Fine ^{a)}	Maximum Term
Less than \$200		Misdemeanor	\$500	93 days
Less than \$200	1 or more	Misdemeanor	\$2,000	1 year
\$200 - \$999		Misdemeanor	\$2,000	1 year
\$200 - \$999	1 or more ^{b)}	Felony	\$10,000	5 years
\$1,000 - \$19,999		Felony	\$10,000	5 years
\$1,000 - \$19,999	2 or more ^{b)}	Felony	\$15,000	10 years
\$20,000 or more		Felony	\$15,000	10 years

^{a)}Or three times the amount of damage, whichever is greater.

^{b)}Does not include a conviction involving damage of less than \$200.

Under the bill, for a violation involving damage of less than \$200, the maximum fine would increase to \$1,000 or three times the amount of damage. For a violation involving damage of \$200 or more but less than \$1,000, or damage of less than \$200 when the offender had one or more prior convictions, the maximum fine would increase to \$5,000 or three times the amount of damage.

In addition, under the bill, a violation involving damage of less than \$200 also would be punishable by up to 100 hours of community service. A violation involving damage of \$200 or more but less than \$1,000, or damage of less than \$200 when the offender had one or more prior convictions, also would be punishable by up to 200 hours of community service. In either case, if the damaged property were a war memorial or war monument, the community service would have to be performed in a veterans home or for a veterans service organization.

MCL 750.387

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

While the Penal Code already contains penalties for destroying or damaging a tomb, monument, gravestone, other memorial placement, and certain structures or landscaping associated with a grave or memorial site, a \$500 maximum fine for a violation involving damage of less than \$200 and a \$2,000 maximum fine for a second such offense or for damage of up to \$1,000 are simply too lenient. Desecrating a grave or memorial, especially one that is placed to honor those who have sacrificed their lives in service to their country, is an egregious act of vandalism and should be dealt with more harshly. The bill would accomplish this by substantially increasing the fines to \$1,000 and \$5,000, respectively, and by adding a community service component to the penalties. The bill also would underscore the seriousness of vandalizing a war memorial or war monument by specifically including those markers in the current prohibition and requiring that any community service ordered by the court be

served either in a veterans home or for a veterans service organization, if the violation involved damage to a war memorial or war monument.

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 would be convicted of an offense involving a war memorial or war monument, or an offense involving damage of less than \$1,000. An individual convicted of an offense involving damage of less than \$1,000 would be subject to increased fines and up to 200 hours of community service, as well as a jail term of up to one year. Local governments would incur the costs of incarceration in local facilities, which vary by county. Any additional penal fine revenue collected would benefit public libraries.

Fiscal Analyst: Mathew 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.