



Senate Fiscal Agency
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BILL



ANALYSIS

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Senate Bill 949 (as introduced 10-28-09)
Sponsor: Senator Randy Richardville
Committee: Senior Citizens and Veterans Affairs

Date Completed: 11-2-09

CONTENT

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

- **Extend the prohibition 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.**
- **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.

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

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: 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.