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BILL



ANALYSIS

Telephone: (517) 373-5383
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House Bills 5692 through 5695 (as reported without amendment)

Sponsor: Representative John Walsh (H.B. 5692)
Representative Kevin Cotter (H.B. 5693)
Representative Joseph Graves (H.B. 5694)
Representative Stacy Erwin Oakes (H.B. 5695)

House Committee: Judiciary

Senate Committee: Judiciary

CONTENT

House Bills 5692, 5693, and 5694 would amend Chapter 10 (Arson and Burning) of the Michigan Penal Code to delete and replace various arson prohibitions and penalties. The bills are tie-barred and would take effect 90 days after their enactment.

House Bill 5692 would delete the current prohibitions against burning an occupied dwelling house and instead would create the crimes of first- and second-degree arson. First-degree arson would apply if a person willfully or maliciously burned, damaged, or destroyed any of the following buildings, by fire or explosive, or the contents of any of those buildings:

- A multiunit building or structure in which one or more units were a dwelling, regardless of whether any of the units were occupied, unoccupied, or vacant at the time of the fire or explosion.
- Any building or structure or other real property if the fire or explosion resulted in physical injury to any individual.
- A mine.

Except as provided for first-degree arson, a person who willfully or maliciously burned, damaged, or destroyed a dwelling or its contents by fire or explosive, regardless of whether it was occupied, unoccupied, or vacant at the time of the fire or explosion, would be guilty of second-degree arson.

First-degree arson would be a felony punishable by imprisonment for life or any term of years; a maximum fine of \$20,000 or three times the value of the property damaged or destroyed, whichever was greater; or both imprisonment and a fine. Second-degree arson would be a felony punishable by up to 20 years' imprisonment; a maximum fine of \$20,000 or three times the value of the property damaged or destroyed, whichever was greater; or both imprisonment and a fine.

House Bill 5693 would delete the current prohibitions against willfully and maliciously burning any personal property, and willfully burning insured property with the intent to injure and defraud the insurer, and instead would create the crimes of third- and fourth-degree arson. Except as provided for first- and second-degree arson, a person who willfully or maliciously burned, damaged, or destroyed any of the following would be guilty of third-degree arson:

- A building or structure, or its contents, by fire or explosive regardless of whether the building was occupied, unoccupied, or vacant at the time of the fire or explosion.

- Personal property having a value of \$20,000 or more, or having a value of \$1,000 or more if the person had one or more prior convictions.

Except as provided for first-, second-, and third-degree arson, a person who did any of the following would be guilty of fourth-degree arson:

- Willfully and maliciously burned, damaged, or destroyed any personal property having a value of \$1,000 or more but less than \$20,000, or, if the person had one or more prior convictions, any personal property having a value of \$200 or more.
- Willfully or negligently set fire to another person's woods, prairie, or grounds or permitted fire to pass from his or her own woods, prairie, or grounds to another person's property causing damage or destruction to that other property.

Third-degree arson would be a felony punishable by up to 10 years' imprisonment; a maximum fine of \$20,000 or three times the value of the property damaged or destroyed, whichever was greater; or both imprisonment and a fine. Fourth-degree arson would be a felony punishable by up to five years' imprisonment; a maximum fine of \$10,000 or three times the value of the property damaged or destroyed, whichever was greater; or both imprisonment and a fine.

Also, under the bill, a person who willfully or maliciously burned, damaged, or destroyed any of the following or the contents of any of the following by fire or explosive would be guilty of arson of insured property, if the person caused the fire or explosion with the intent to defraud the insurer:

- Any dwelling that was insured against loss from fire or explosion.
- Any other building, structure, or other real property that was insured against loss from fire or explosion.
- Any personal property that was insured against loss by fire or explosion.

Arson of insured property would be a felony punishable under a graduated schedule of penalties based on the value of the property damaged or destroyed and the offender's prior convictions.

House Bill 5694 would delete prohibitions against using, arranging, placing, devising, or distributing an inflammable, combustible, or explosive material, liquid, or substance or any device in or near a building or property with willful or malicious intent to set fire to the building or property.

Under the bill, except as provided for first-, second-, third-, or fourth-degree arson or arson of insured property, a person who intentionally damaged or destroyed any of the following, or its contents, by fire or explosive would be guilty of sixth-degree arson:

- Any personal property having a value of \$200 or more but less than \$1,000, if the person had one or more prior convictions.
- Any personal property having a value of less than \$200, if the person had one or more prior convictions.

Sixth-degree arson would be a misdemeanor punishable by up to one year's imprisonment; a maximum fine of \$2,000 or three times the value of the property damaged or destroyed, whichever was greater; or both imprisonment and a fine.

The bill also would establish graduated penalties, based on the value of property damaged or destroyed and prior convictions, for the following:

- Willfully and maliciously burning, damaging, or destroying by fire or explosive any personal property having a value of \$200 or more but less than \$1,000; having a value of less than \$200 if the person had one or more prior convictions; or having a value of less than \$200.
- Negligently, carelessly, or recklessly setting fire to a hotel or motel or its contents, and, by setting that fire, endangering another person's life or property
- Using, arranging, placing, devising, or distributing an inflammable, combustible, or explosive material, liquid, or substance or any device in or near a building, structure, other real property, or personal property, with the intent to commit arson.

House Bill 5695 would amend the Code of Criminal Procedure to delete sentencing guidelines designations for arson violations deleted by House Bills 5692, 5693, and 5694, and would add sentencing guidelines designations for arson violations proposed by those bills. Under House Bill 5695, arson violations would be designated in the sentencing guidelines as shown in Table 1.

Table 1

Felony	Class & Category	Stat. Max. Sentence
First-degree Arson	B - Person	Life
Second-degree Arson	D - Property	20 years
Third-degree Arson	E - Person	10 years
Arson of Insured Dwelling	A - Property	Life
Arson of Insured Building or Structure	B - Property	20 years
Arson of Insured Personal Property	D - Property	10 years
Placing Incendiary Device - \$1,000 or more but less than \$20,000, or with priors	E - Property	5 years
Placing Incendiary Device - \$20,000 or more, or with priors, or with intent for insurance fraud or causing injury	D - Property	10 years
Placing Incendiary Device with intent for insurance fraud or causing injury	C - Property	15 years

The bill is tie-barred to House Bills 5692, 5693, and 5694.

MCL 750.71-750.73 (H.B. 5692)
 750.74-750.76 (H.B. 5693)
 750.77-750.79 (H.B. 5694)
 777.16c (H.B. 5695)

Legislative Analyst: Patrick Affholter

FISCAL IMPACT

The bills would both delete and create a variety of felonies and misdemeanors related to arson. The ways that the proposed laws would punish various offenses relative to the status quo could result in longer sentence in some instances but shorter sentences in other cases. Therefore, the proposed bills' impact on State and local costs of incarceration and community supervision is indeterminate. In 2010, there were 185 felony dispositions for the 10 felonies currently in statute related to arson, so there is potential for a non-negligible fiscal impact.

Date Completed: 12-7-12

Fiscal Analyst: Dan O'Connor

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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.