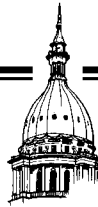




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BILL



ANALYSIS

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House Bill 4525 (Substitute H-2 as passed by the House)
Sponsor: Representative Joseph Graves
House Committee: Criminal Justice
Senate Committee: Judiciary

Date Completed: 8-30-13

CONTENT

The bill would amend the Code of Criminal Procedure to add and revise sentencing guidelines designations for certain felonies enacted or revised in 2012.

The sentencing guidelines proposed by the bill are described below and displayed in Table 1.

Table 1

Offense	Current Category	Current Class	Proposed Category	Proposed Class
PA 183 of 2012 violation	NA	NA	Controlled Sub.	F
PA 256 of 2012 violation	NA	NA	Public Safety	E
First-Degree Arson	Person	B	Person	A
Second-Degree Arson	Property	D	Person	B
Third-Degree Arson	Person	E	Property	D
Fourth-Degree Arson	NA	NA	Property	E
Arson of Insured Dwelling	Property	A	Person	A
Organized Retail Crime	Property	C	Property	E

Additional Sentencing Guidelines

Public Act 183 of 2012 amended the Public Health Code to prohibit a person from selling a named product while representing that it contains an ingredient producing effects similar to those produced by a Schedule 1 controlled substance. A violation is a felony punishable by up to four years' imprisonment, a maximum fine of \$20,000, or both.

The bill would include this offense in the sentencing guidelines. The violation would be a Class F controlled substance felony with a statutory maximum sentence of four years' imprisonment.

Public Act 256 of 2012 amended Public Act 7 of 1981, which prohibits jail inmates' possession of certain items, to prohibit a person from selling or furnishing a cell phone or other wireless communication device to a jail inmate. A violation is a felony punishable by up to five years' imprisonment, a maximum fine of \$1,000, or both.

The bill would include this offense in the sentencing guidelines. The violation would be a Class E public safety felony with a statutory maximum sentence of five years' imprisonment.

Revised Sentencing Guidelines

Arson Violations. Public Acts 531, 532, and 533 of 2012 amended Chapter 10A (Arson and Burning) of the Michigan Penal Code to revise various arson prohibitions and penalties. Public Act 534 of 2012 amended the Code of Criminal Procedure to revise the sentencing guidelines designations for those violations.

Currently, first-degree arson is a Class B felony against a person with a statutory maximum sentence of imprisonment for life. The bill would make it a Class A felony.

Second-degree arson is a Class D property felony with a statutory maximum sentence of 20 years' imprisonment. Under the bill, it would be a Class B felony against a person.

Third-degree arson is a Class E felony against a person with a statutory maximum sentence of 10 years' imprisonment. The bill would make it a Class D property felony.

The bill would designate fourth-degree arson as a Class E property felony with a statutory maximum sentence of five years' imprisonment.

Arson of an insured dwelling is a Class A property felony with a statutory maximum sentence of imprisonment for life. The bill would change that violation to a Class A felony against a person.

The bill would remove the designation of arson of insured property as a Class E property felony with a statutory maximum sentence of 10 years' imprisonment. (In addition to arson of an insured dwelling, the amended Code contains separate sentencing guidelines for arson of an insured building or structure and arson of personal property.)

Organized Retail Crime. Public Act 455 of 2012 enacted the Organized Retail Crime Act to prohibit engaging in organized retail crime. A violation is a felony punishable by up to five years' imprisonment, a maximum fine of \$5,000, or both. Public Act 456 of 2012 included the violation in the sentencing guidelines as a Class C property felony with a statutory maximum sentence of five years' imprisonment. The bill would change that designation to a Class E property felony.

MCL 777.13m et al.

Legislative Analyst: Patrick Affholter

FISCAL IMPACT

The bill would have an indeterminate negative fiscal impact on State and local government. By elevating the crime classes for several offenses, the bill would increase the average minimum sentence for prison-bound offenders, and would increase the likelihood of incarceration for offenders who would not have been prison-bound if their crimes remained in the current crime class. The sentencing guidelines consist of a series of grids that combine "offense variables" and "prior offense variables" and use those data to give the judge a range of minimum sentences. For each class of offenses, the range is higher (holding the other variable static), so for a given crime and criminal history, the likelihood of a longer minimum sentence would be increased under the bill.

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.