

ALLOW PARENTAL EAVESDROPPING

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House Bill 4891 proposed substitute (H-1)
Sponsor: Rep. Peter Lucido
Committee: Families, Children, and Seniors
Complete to 10-11-17

Analysis available at
<http://www.legislature.mi.gov>

SUMMARY:

House Bill 4891 would amend the Michigan Penal Code to allow custodial parents, foster parents, or guardians to eavesdrop on conversations in which their minor children were participants.

Sections 529a-539f of the Code prohibit and provide penalties for eavesdropping under various circumstances. Section 539g provides the following exceptions, thereby permitting any of the following:

- Eavesdropping or surveillance by a peace officer, the federal government, or the officer's agent while in the performance his or her duties.
- Hearing a communication transmitted by common carrier facilities by an employee when acting in the course of his or her employment.
- Recording by a public utility of telephone communications to it requesting service or registering a complaint by a customer if a record of the communication is required for legitimate business, among other things.
- Routine monitoring (including recording) by employees of the department of corrections of telephone communications on telephones available for use by prisoners in state correctional facilities.

The bill would add to the list of allowable exceptions eavesdropping not otherwise prohibited by law by the custodial parent, foster parent, or guardian of a minor child during a private conversation to which the minor child is a participant.

MCL 750.539g

FISCAL IMPACT:

To the extent that provisions of the bill result in fewer people being convicted of eavesdropping crimes, the bill could result in a decrease in costs for the state and for local units of government. Reduced felony charges would result in reduced costs related to the state correctional system and reduced misdemeanor charges would result in reduced costs related to county jails and/or local misdemeanor probation supervision. In fiscal year 2016, the average cost of prison incarceration in a state facility was roughly \$36,000 per prisoner, a figure that includes various fixed administrative and operational costs. State costs for parole and felony probation supervision averaged about \$3,500 per supervised offender in the same year. The costs of local incarceration in county jails and local misdemeanor

probation supervision vary by jurisdiction. The fiscal impact on local court systems would depend on how provisions of the bill affected caseloads and related administrative costs. There could also be a decrease in penal fine revenues which would decrease funding for local libraries, which are the constitutionally designated recipients of those revenues.

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■ This analysis was prepared by nonpartisan House Fiscal Agency staff for use by House members in their deliberations, and does not constitute an official statement of legislative intent.