

INTERFERENCE WITH ELECTRONIC COMMUNICATION

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Senate Bill 1024

Sponsor: Sen. Bill Hardiman

House Committee: Judiciary

Senate Committee: Judiciary

Complete to 2-21-06

A SUMMARY OF SENATE BILL 1024 AS PASSED BY THE SENATE 2-14-06

Currently, it is against the law to willfully and maliciously cut or tap telegraph or telephone lines or wire or cable in order to read or copy messages or sporting, commercial, or other news reports; use the same without authorization; prevent, obstruct, or delay the sending, conveyance, or delivery of authorized communications; or aid, employ, or conspire with another to do any of the prohibited acts.

Senate Bill 1024, in conjunction with House Bills 5043 and 5044, would update language to include electronic mediums of communication and increase the penalty for a violation from a misdemeanor to a felony. The bills would take effect June 1, 2006 and would do the following:

Senate Bill 1024 would amend the Michigan Penal Code (MCL750.540) to eliminate the current prohibition detailed above and replace it with updated language to include forms of communication using the Internet, computers, and computer networks. The new language would prohibit a person from willfully and maliciously doing any of the following:

- Cut, break, disconnect, interrupt, tap, or make unauthorized connections with any electronic medium of communication. This would include the Internet or a computer; computer program, system, or network; or a telephone.
- Read or copy any message from any telegraph, telephone line, wire, or cable; computer network, program, or system; or telephone or other electronic medium of communication that the person accessed without authorization.
- Make unauthorized use of any electronic medium of communication.
- Prevent, obstruct, or delay by any means the sending, conveyance, or delivery of an authorized communication by or through any telegraph or telephone line, cable, wire, or any electronic medium of communication.

Under House Bill 5043, as passed by the Senate, the penalty would increase from a misdemeanor to a felony. A violation would be punishable by imprisonment for not more than two years and/or a fine of not more than \$1,000. However, if the incident resulted in injury to or the death of any person, the violation would be punishable by imprisonment for up to four years and/or a fine of up to \$5,000. House Bill 5043 also

contains definitions of the terms "computer," "computer network," "computer program," "computer system," "device," and "Internet."

House Bill 5044, as passed by the Senate, would amend the sentencing guidelines portion of the Code of Criminal Procedure (MCL 777.16z) to specify that damaging, destroying, using, or obstructing use of an electric medium of communication without authorization would be a Class H felony against the public order with a two-year maximum term of imprisonment; and that such a violation when it resulted in injury or death would be a Class F felony and a person with a four-year maximum term of imprisonment.

FISCAL IMPACT:

Senate Bill 1024, along with House Bills 5043 and 5044, could increase state and local correctional costs, depending on how they affected numbers of felony convictions and the sanctions imposed for them. The state would bear any increased costs of felony probation or incarceration in a state facility; field supervision of parolees and probationers averages roughly \$2,000 annually, while the average annual cost of prison incarceration is about \$30,000. Any increased costs due to jail sentences would fall to the county. Any increases in penal fine revenues would benefit local libraries, which are the constitutionally-designated recipients of those revenues.

In 2003, the most recent year for which data are available, there were 105 sentences imposed for violation of the current law. Of those sentences, 17 were for prison, 61 were for probation, 24 were for jail, and 3 were "other" (which could be, for example, a commitment to the Department of Corrections (MDOC) under the Holmes Youthful Trainee Act). According to the MDOC, there were 9 commitments to the department in 2003 for violations of the current law. Of those, 3 carried minimum sentences of one year, 5 had sentences of 1.5 years, and 1 person was sentenced to two years.

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