



Senate Fiscal Agency
P. O. Box 30036
Lansing, Michigan 48909-7536



BILL ANALYSIS

Telephone: (517) 373-5383
Fax: (517) 373-1986
TDD: (517) 373-0543

Senate Bill 1024 (as introduced 2-1-06)
Sponsor: Senator Bill Hardiman
Committee: Judiciary

Date Completed: 2-6-06

CONTENT

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

- Delete current prohibitions against interfering with telegraph and telephone communications.**
- Establish new prohibitions against interfering with any "telecommunications device".**
- Prescribe felony penalties for violations of the proposed prohibitions.**

Currently, the Penal Code prohibits a person from doing any of the following:

- Willfully or maliciously cutting, breaking, tapping, or making any connection with any telegraph or telephone line, wire, or cable.
- Reading or copying any message from an unlawfully cut or tapped telegraph or telephone line, wire, or cable.
- Maliciously preventing, obstructing, or delaying the sending, conveyance, or delivery of any authorized communication by or through any telegraph or telephone line, cable, or wire under the control of any telegraph or telephone company doing business in Michigan.
- Willfully and maliciously aiding, agreeing with, employing, or conspiring with any other person to do any of the above.

A violation is a misdemeanor punishable by up to two years' imprisonment, a maximum fine of \$1,000, or both.

The bill would delete those prohibitions and penalties, and instead would prohibit a person from willfully and maliciously cutting, breaking, disconnecting, interrupting access to, tapping, or making any unauthorized connection with any telecommunications device. The prohibition would not apply to an individual who owned the telecommunications device, unless it was being used by an individual to report a crime, to report the illness of or injury to any person, or to report domestic violence.

A violation of the bill would be a felony punishable by up to two years' imprisonment, a maximum fine of \$1,000, or both. If the incident to be reported resulted in injury to or the death of any person, a violation would be a felony punishable by up to four years' imprisonment, a maximum fine of \$5,000, or both.

"Telecommunications device" would mean a device designed or intended to be used for communications through telecommunication services. "Telecommunication services" would

mean that term as defined in the Michigan Telecommunications Act (MCL 484.2102). Under that Act, "telecommunications services" includes regulated and unregulated services offered to customers for the transmission of two-way interactive communication and associated usage.

"Domestic violence" would mean that term as defined in the domestic violence prevention and treatment Act (MCL 400.1501). Under that Act, "domestic violence" means the occurrence of any of the following acts by a person that is not an act of self-defense:

- Causing or attempting to cause physical or mental harm to a family or household member.
- Placing a family or household member in fear of physical or mental harm.
- Causing or attempting to cause a family or household member to engage in involuntary sexual activity by force, threat of force, or duress.
- Engaging in activity toward a family or household member that would cause a reasonable person to feel terrorized, frightened, intimidated, threatened, harassed, or molested.

The bill is tie-barred to House Bill 5043, which would make similar amendments to the Michigan Penal Code.

MCL 750.540

Legislative Analyst: Patrick Affholter

FISCAL IMPACT

The bill would have an indeterminate fiscal impact on State and local government. Convictions under the current law have increased significantly since 2000. In 2000, four offenders were sentenced to probation under the current law. (Two of the offenders were convicted of attempting the offense.) Convictions rose to 41 in 2001 and 73 in 2002. In 2003, 105 offenders were sentenced under the current law, resulting in 17 prison sentences, 61 probation sentences, 24 jail sentences, and three other sentences. However, there are no data to indicate whether the same pattern of increases in convictions would occur with the proposed inclusion of all telecommunications devices, or how many of the sentences would be for prison, probation, jail, or "other" types of sentences. Local governments would incur the costs of incarceration in local facilities, which vary by county. The State would incur the cost of felony probation at an annual average cost of \$2,000, as well as the cost of incarceration in a State facility at an average annual cost of \$30,000. Additional penal fine revenue would benefit public libraries.

Fiscal Analyst: Lindsay Hollander

S0506\sb1024sa

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.