

## SENTENCING GUIDELINES: TECHNICAL CHANGES

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### Senate Bill 344 with House committee amendment

**Sponsor:** Sen. Wayne Kuipers

**House Committee:** Judiciary

**Senate Committee:** Judiciary

### First Analysis (5-17-07)

**BRIEF SUMMARY:** The bill would make technical corrections to several citations contained within Chapters 1 and 17 of the Code of Criminal Procedure and restructure one long section of the sentencing guidelines into three smaller sections.

**FISCAL IMPACT:** There is no fiscal impact on the State of Michigan or its local units of government.

### **THE APPARENT PROBLEM:**

When the Code of Criminal Procedure statute was amended last year by Public Act 655, a typographical error in Chapter 17 (Sentencing Guidelines) inadvertently changed the MCL citation in the sentencing guidelines for the crime of receiving or concealing stolen property having a value of \$20,000 or more or with prior convictions. Since the MCL citation in the sentencing guidelines determines whether an offense is included in the guidelines, a person convicted of the offense could argue that the guidelines' scoring system does not apply to his or her sentence. It has been suggested that the citation, as well as other incorrect citations in the act, be corrected.

Furthermore, amendments to Section 16z of Chapter 17 in recent years have lumped together sentencing guidelines classifications for stolen property, terrorism, eavesdropping, and telecommunications. Some have suggested that breaking the section into smaller sections based on subject matter would be less confusing.

### **THE CONTENT OF THE BILL:**

The bill would amend Chapter 1 (Definitions) of the Code of Criminal Procedure to correct the citation listed for the Revised Judicature Act contained in the definition of "magistrate"; include the Public Act number and MCL citation for the County Juvenile Agency Act contained in the definition of "county juvenile agency"; and replace a reference to *closed circuit television* with *interactive video technology* within the definition of the terms "taken," "brought," or "before."

The bill would also amend Chapter 17 (Sentencing Guidelines) of the Code of Criminal Procedure to do both of the following:

- Correct the MCL citation in the sentencing guidelines classification for *receiving or concealing stolen property having a value of \$20,000 or more or with prior convictions*.
- Recodify sentencing guidelines designations for various violations of the Michigan Penal Code.

Incorrect MCL Citation. Currently, the Michigan Compiled Laws (MCL) citation for receiving or concealing stolen property having a value of \$20,000 or more or with prior convictions is listed in the sentencing guidelines as 750.520b(2), but the actual citation for that violation is 750.535(2). The bill would correct this.

The bill specifies that this citation correction would apply retroactively to January 9, 2007 (which is the effective date of Public Act 655 of 2006).

Recodification of Classifications. In addition, MCL 777.16z includes sentencing guidelines classifications for 31 violations of the Penal Code. The bill would delete 25 of those classifications and instead place them in two newly created sections (MCL 777.16aa and 777.16bb).

(The offenses recodified in MCL 777.16aa generally deal with eavesdropping, surveillance, and telecommunications. The offenses recodified in MCL 777.16bb generally pertain to terrorism. The offenses remaining in MCL 777.16z generally involve stolen property.)

MCL 761.1 et al.

#### ***HOUSE COMMITTEE ACTION:***

The committee adopted an amendment that made changes of an editorial nature to Chapter 1 (Definitions) of the code.

#### ***ARGUMENTS:***

##### ***For:***

Even with many eyes looking over proposed bills as they make their way through the legislative process, errors or omissions can happen. Sometimes these errors cause confusion or have unintended consequences. Regardless of the impact of the error, statutes should always be accurate. The bill would simply correct several typographical errors and update terminology relating to video technology.

##### ***For:***

Whenever a new felony crime category is created or the maximum term of imprisonment for an existing crime is increased, the corresponding provision in the sentencing guidelines must be amended. Several years ago, some of the larger sections of the sentencing guidelines portion of the Code of Criminal Procedure were divided into smaller sections to avoid the number of conflict bill substitutes needed when multiple

bills amending the same section of the sentencing guidelines were introduced in the same legislative session. With Section 16z containing sentencing classifications for 31 violations of the Penal Code that pertain to crimes of terrorism, stolen property, telecommunications, eavesdropping, and surveillance, it makes sense to divide the section and group the crime classifications into smaller sections.

***POSITIONS:***

No positions were offered on the bill.

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