

Senate Fiscal Agency
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SFA**BILL ANALYSIS**

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House Bill 4289 (Substitute S-1 as reported)
Sponsor: Representative Mark Schauer
House Committee: Judiciary
Senate Committee: Judiciary

CONTENT

The bill would amend Chapter 33 of the Michigan Penal Code, which deals with explosives, to prescribe specific penalties for some felonies with no specified penalty, and to establish a range of penalties for certain offenses involving an intent to frighten, threaten, injure, kill, or cause damage. The bill is tie-barred to Senate Bill 97.

Currently, the Code makes it a felony with no specified penalty to transport dynamite, gunpowder, or other explosives between locations in Michigan on a passenger vessel or vehicle, or to order, send, transport, convey, or carry explosives as freight or baggage. (Under the law, a felony with no specified penalty is punishable by imprisonment for up to four years and/or a fine of up to \$2,000.) Under the House bill, these offenses would be punishable by imprisonment for up to five years and/or a maximum fine of \$3,000.

The bill would replace current penalties with a range of penalties for offenses that involve sending or delivering an explosive with the intent to cause injury (punishable by up to five years' imprisonment); or making or possessing a highly incendiary device with the intent to use it against another person or property (no specified penalty). Under the bill, depending upon the injury or damage, a person would be subject to the following term of imprisonment and/or maximum fine: up to 15 years and/or \$10,000 except as otherwise provided; up to 20 years and/or \$15,000 for property damage; up to 25 years and/or \$20,000 for physical injury without serious impairment of a body function; life or any term of years and/or \$25,000 for serious impairment of a body function; or mandatory life imprisonment and a fine of up to \$40,000 for death. These offenses would require an intent to frighten, terrorize, intimidate, threaten, harass, injure, or kill any person, or to damage real or personal property without the permission of the owner or, if the property were public, of the governmental agency having jurisdiction.

The bill also would make it a felony, punishable by up to 10 years and/or \$10,000, to possess an explosive substance or device in a public place with the intent to terrorize, frighten, threaten, harass, or annoy any other person.

MCL 750.200 et al.

Legislative Analyst: S. Lowe

FISCAL IMPACT

To the extent that House Bill 4289 (S-1) would amend sentence length by increasing the maximum sentence and imposing fines for crimes for which there were no commitments to State prison during 1996, the fiscal impact of the proposed legislation on State government is indeterminate.

The length of incarceration in a State prison is a function of the minimum sentence imposed by a judge. Based on the average minimum sentence of 1996 new commitments summarized in Table 1, the maximum sentence does not have an impact on the minimum sentence imposed. A change

in maximum sentence would have an indeterminate impact on the amount of time served by the offender.

Additionally, as there are no data available to indicate how many would be convicted of using an explosive device to intimidate or harass another individual, the addition of Section 209a would have indeterminate fiscal impact on State government.

Table 1 1996 Commitments				
<u>MCL Section</u>	<u>Existing Maximum Sentence</u>	<u>Proposed Maximum Sentence</u>	<u>1996 Commitments</u>	<u>Average Length of Minimum Sentence</u>
750.204	5 Years	15, 20, or 25 Years, Life, or Life without Parole	0	
750.207	Life	No Change	0	
750.211a	4 Years	15, 20, or 25 Years, Life, or Life without Parole	0	
750.205a	4 Years	No Change	1	2 Years
750.206	25 Years	No Change	1	3 Years
750.208	15 Years	No Change	5	5.4 Years
750.210	5 Years	No Change		
750.211	5 Years	No Change	1	3 Years

Date Completed: 3-9-98

Fiscal Analyst: K. Firestone

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