

DAMAGED OR DESTROYED RESEARCH PROPERTY

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Senate Bill 1175 (Substitute S-1)
Senate Bill 1176 (Substitute S-2)
Sponsor: Sen. Tom George
Senate Committee: Judiciary
House Committee: Criminal Justice

Complete to 11-30-04

A SUMMARY OF SENATE BILLS 1175 AND 1176 AS PASSED BY THE SENATE

Senate Bill 1175 (S-1) would amend the Code of Criminal Procedure (MCL 777.16s) to add felony offenses of damaging or destroying research property to the sentencing guidelines. As shown in Table 1, the guidelines would be based on the value of the property, the number of prior convictions, and whether the offense resulted in physical injury or serious impairment of a body function.

Table 1

Property Value, Prior Conviction, or Injury	Felony Class & Category	Statutory Maximum
Between \$1,000 and \$20,000, or with 1 prior conviction	E-Property	5 years
\$20,000 or more, or with at least two prior convictions	E-Property	5 years
Physical Injury	E-Person	5 years
Serious impairment of a body function	D-Person	10 years
Death	C-Person	15 years

The bill would take effect on January 1, 2005, and is tie-barred to Senate Bill 1176.

Senate Bill 1176 (S-2) would add a new section to the Michigan Penal Code (MCL 750.395) to prohibit a person from doing either of the following:

- Damaging or destroying another person's research property with the intent to frighten, intimidate, or harass any person because of his or her participation or involvement in, or cooperation with, research; to prevent any person from engaging in any lawful profession, occupation, or activity because of his or her participation or involvement in, or cooperation with, research; or, to prevent, delay, hinder, or otherwise harm the research or use of the research.

- Placing any object in any research property to prevent the lawful growing, harvesting, transportation, keeping, selling, or processing of that research property.

"Research" would mean any lawful activity involving the use of animals, animal products, or other animal substances, intended for or used for scientific purposes, including, but not limited to, research, testing, and experimentation. "Research property" would mean all real, personal, and intellectual property related to research belonging to or conducted by a person." "Intellectual property" would mean that term as defined by the Confidential Research Information Act" (MCL 390.1552).

A violation would be punishable as shown in Table 2, depending on the value of the property, prior convictions, and whether the offense resulted in injury or death. An offender would be subject to either the maximum fine listed below or a fine equal to three times the value of the property, whichever was greater.

Table 2

Property Value, Prior Convictions, or Injury/Death	Maximum Imprisonment	Maximum Fine
Less than \$200	93 days (misdemeanor)	\$500
At least \$200 but less than \$1,000, or less than \$200 and one or more prior convictions	1 year (misdemeanor)	\$2,000
At least \$1,000 but less than \$20,000, or at least \$200 but less than \$1,000 and one or more prior convictions	5 years (felony)	\$10,000
At least \$20,000, or at least \$1,000 but less than \$20,000 and two or more prior convictions	5 years (felony)	\$15,000
Physical injury other than serious impairment	5 years (felony)	\$20,000
Serious impairment of a body function of another individual	10 years (felony)	\$25,000
Death of another individual	15 years	\$40,000

The value of research property damaged or destroyed in separate incidents pursuant to a scheme or course of conduct within any 12-month period could be aggregated to determine the total value of research property damaged or destroyed. An offender could be charged, convicted, and punished, instead, with another violation arising out of the same criminal transaction.

The court would have to order a person convicted under the bill to pay restitution to the victim and could order the person to pay all research and development costs for the

research property damaged or destroyed that arose out of the violation and/or the tuition costs and lost wages of a student who was conducting research regarding the property damaged or destroyed or who was unable to conduct or continue research because of a loss that arose out of the violation.

The bill would take effect on January 1, 2005.

FISCAL IMPACT:

The bills would have an indeterminate impact on the state and local units of government, depending on how they affected prosecutorial charging decisions and the numbers and types of criminal convictions. The state is responsible the costs of for felony probation supervision and incarceration in a state prison, while local units of government are responsible for the costs of misdemeanor probation supervision and incarceration in a county jail. To the extent that the bills increased numbers or severity of felony or misdemeanor convictions, state and local costs would increase accordingly. Penal fine collections under SB 1176 could increase revenues for local libraries, which are the constitutionally-designated recipients of those revenues.

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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.