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BILL ANALYSIS

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Senate Bill 885 (as introduced 11-10-05)
Sponsor: Senator Bill Hardiman
Committee: Judiciary

Date Completed: 12-12-05

CONTENT

The bill would amend the Michigan Penal Code to prohibit a person from damaging, destroying, disconnecting, or otherwise preventing access to a telecommunications device in order to prevent the use of that device to report domestic violence or obtain medical, legal, or other assistance required or desired as a result of domestic violence.

A violation of the bill would be a misdemeanor punishable by up to 90 days' imprisonment, a maximum fine of \$500, or both. If the domestic violence resulted in injury to or the death of any person, however, the violation would be a felony punishable by up to four years' imprisonment, a maximum fine of \$5,000, or both. The bill specifies that it would not prohibit a person from being charged with, convicted of, or punished for any other crime, including any other charge relating to domestic violence, in addition to be charged with, convicted of, and punished for a violation of the bill.

"Domestic violence" would mean that term as it is 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.

"Family or household member" includes a spouse or former spouse; an individual with whom the person resides or has resided; an individual with whom the person has or has had a dating relationship; an individual with whom the person is or has engaged in a sexual relationship; an individual to whom the person is related or was formerly related by marriage; an individual with whom the person has a child in common; and the minor child of an individual described above.

Under the bill, "telecommunications device" would mean a device designed or intended to be used for communications through a "communications service". The bill specifies that "communications service" would mean that term as it is defined in the Michigan Telecommunications Act (MCL 484.2102) (but that Act does not define "communications service").

Proposed MCL 750.411u

Legislative Analyst: Patrick Affholter

FISCAL IMPACT

The bill would have an indeterminate fiscal impact on State and local government. There are no data to indicate how many offenders would be convicted of the proposed offense. In 2004, 55,200 acts of domestic violence were reported to law enforcement agencies. For both the misdemeanor and felony offenses in the bill, 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

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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.