



Senate Fiscal Agency
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BILL ANALYSIS



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Senate Bills 954 and 955 (as introduced 12-5-07)

Sponsor: Senator Randy Richardville

Committee: Judiciary

Date Completed: 1-28-08

CONTENT

Senate Bills 954 and 955 would amend the Michigan Penal Code and the Code of Criminal Procedure, respectively, to establish a criminal penalty for damaging or destroying a war memorial or war monument, and include the violation in the sentencing guidelines.

Senate Bill 955 is tie-barred to Senate Bill 954.

Senate Bill 954

Under the Penal Code, a person is prohibited from willfully destroying, mutilating, defacing, injuring, or removing a tomb, monument, gravestone, or other structure or thing placed or designed for a memorial of the dead, or a fence, railing, curb, or other thing intended for the protection or for the ornament of any tomb, monument, gravestone, or other structure, or any other enclosure for the burial of the dead. The Code also prohibits willfully destroying, mutilating, removing, cutting, breaking, or injuring any tree, shrub, or plant placed or within such an enclosure. The prohibitions do not apply to the burial right owner or his or her representative or legal heir, or a person having care, custody, or control of a cemetery.

The Code includes graduated penalties for a violation, based on the monetary value of the total damage and the offender's prior convictions for committing or attempting to commit the offense, as shown in Table 1.

Table 1

Damage	Prior Convictions	Offense	Maximum Fine ^{a)}	Maximum Term
Less than \$200		Misdemeanor	\$500	93 days
\$200 - \$999		Misdemeanor	\$2,000	1 year
Less than \$200	1 or more	Misdemeanor	\$2,000	1 year
\$1,000 - \$19,999		Felony	\$10,000	5 years
\$200 - \$999	1 or more ^{b)}	Felony	\$10,000	5 years
\$20,000 or more		Felony	\$15,000	10 years
\$1,000 - \$19,999	2 or more ^{b)}	Felony	\$15,000	10 years

^{a)}Or three times the amount of damage, whichever is greater.

^{b)}Does not include a conviction involving damage of less than \$200.

Under the bill, if the damaged or destroyed item or structure were a war memorial or a war monument (regardless of the value of the damage or whether the offender had a prior conviction), the offense would be a felony punishable by up to five years' imprisonment and/or a maximum fine of \$10,000 or three times the amount of damage.

Senate Bill 955

Under the sentencing guidelines, malicious destruction of a tomb or memorial involving \$1,000 to \$20,000, or with prior convictions, is a Class E property felony with a statutory maximum of five years' imprisonment. The bill would include malicious destruction of a war memorial or war monument in that sentencing guidelines designation.

MCL 750.387 (S.B. 954)
777.16s (S.B. 955)

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. Three offenders were convicted in 2005 and one in 2004 of malicious destruction of a tomb or memorial involving \$1,000 to \$20,000 or with prior convictions. Two offenders were sentenced to probation, and the other two offenders received other types of sentences such as delayed or suspended sentences, or Holmes Youthful Trainee Act probation. No offenders were convicted of destruction involving \$20,000 or more or with prior convictions in 2004 or 2005. There are no data on misdemeanor convictions. An offender convicted of the Class E offense under the bills would receive a sentencing guidelines minimum sentence range of 0-3 months to 24-38 months. To the extent that the bill increased incarceration time, local governments would incur increased 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 \$33,000. 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.