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BILL ANALYSIS

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Senate Bills 551 and 552 (as introduced 6-30-11)
Sponsor: Senator Goeff Hansen
Committee: Judiciary

Date Completed: 9-12-11

CONTENT

Senate Bill 551 would amend Public Act 17 of 1909, which prohibits or limits access to certain items by prisoners and corrections employees, to do the following:

- Prohibit a prisoner from possessing or using a cell phone or other wireless communication device in or on the grounds of a correctional facility, unless authorized by the Department of Corrections (DOC).
- Exempt certain law enforcement officers from the current prohibitions against selling or furnishing a cell phone or wireless device to a prisoner or disposing of a cell phone or wireless device in or on the grounds of a correctional facility.

Senate Bill 552 would amend Public Act 7 of 1981, which prohibits jail prisoners' possession of certain items, to do the following:

- Prohibit a person from selling or furnishing a cell phone or other wireless communication device to a jail prisoner, or disposing of such a device in a jail or a building appurtenant to a jail, or on grounds used for jail purposes.
- Exempt certain law enforcement officers from those prohibitions.
- Prohibit a jail prisoner from possessing or using a cell phone or other wireless device in a jail building or on grounds used for jail purposes.

A more detailed description of the bills follows.

Senate Bill 551

Prisoner Possession or Use of a Cell Phone

Public Act 17 of 1909 prohibits a person from selling, giving, or furnishing, or aiding in the selling, giving, or furnishing of a cell phone or other wireless communication device to a prisoner in a correctional facility. It also prohibits a person from disposing of a cell phone or other wireless communication device in or on the grounds of a correctional facility.

The bill also would prohibit a prisoner from possessing or using a cell phone or other wireless communication device in a correctional facility or on the grounds of a correctional facility, except as authorized by the DOC.

A violation of the Act is a felony punishable by up to five years' imprisonment, a maximum of fine of \$1,000, or both.

(The Act defines "correctional facility" as any of the following:

- A State prison, reformatory, work camp, or community corrections center.
- A youth correctional facility operated by the DOC or a private vendor under the Corrections Code.
- A privately operated community corrections center or resident home that houses prisoners committed to the DOC's jurisdiction.
- The land on which a facility described above is located.)

Exemption

Under the bill, the current prohibitions would not apply to any of the following:

- A police officer of this State or a political subdivision of the State while lawfully engaged in his or her duties as a police officer.
- A law enforcement officer of the Federal government while lawfully engaged in his or her duties as a law enforcement officer.
- An employee of the DOC who was authorized by the Department to possess or use a cell phone or other wireless device in the correctional facility or on the grounds of that facility, or who allowed a prisoner to possess or use a cell phone or other wireless device in or on the grounds of the facility as authorized by the DOC.

Senate Bill 552

The bill would prohibit a person from selling, giving, or furnishing or aiding in the selling, giving, or furnishing of a cell phone or other wireless communication device to a prisoner in a jail or a building appurtenant to a jail or on grounds used for jail purposes. The bill also would prohibit a person from disposing of a cell phone or other wireless communication device in a jail or appurtenant building, or on grounds used for jail purposes.

These prohibitions would not apply to a police officer of this State or a political subdivision of the State, or a law enforcement officer of the Federal government, while lawfully engaged in his or her duties. The prohibitions also would not apply to a jail employee who was authorized by the person in charge of the jail to possess or use a cell phone or other wireless device in the jail or appurtenant building or on grounds used for jail purposes, or who allowed a prisoner to possess or use a cell phone or other wireless device in the jail or appurtenant building, or on grounds used for jail purposes as authorized by the person in charge of the jail.

In addition, the bill would prohibit a prisoner from possessing or using a cell phone or other wireless communication device in a jail or a building appurtenant to a jail or on grounds used for jail purposes, except as authorized by the person in charge of the jail.

A violation of the Act is a felony punishable by up to five years' imprisonment, a maximum of fine of \$1,000, or both.

(The Act defines "jail" as a municipal or county jail, work-camp, lockup, holding center, half-way house, community corrections center, house of correction, or any other facility maintained by a municipality or county that houses prisoners.)

MCL 800.283a (S.B. 551)
Proposed MCL 801.262a (S.B. 552)

Legislative Analyst: Patrick Affholter

FISCAL IMPACT

The bills 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 offenses. To the extent that these bills increased the number of convictions related to cellular phones in correctional facilities, the State and local units of government would incur additional costs. 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 \$2,500, as well as the cost of incarceration in a State facility at an average annual cost of \$34,000. Additional penal fine revenue would benefit public libraries.

Fiscal Analyst: Matthew Grabowski

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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.