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**SFA****BILL ANALYSIS**

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Senate Bill 598 (Substitute S-1 as reported by the Committee of the Whole)  
Sponsor: Senator Mike Goschka  
Committee: Judiciary

### **CONTENT**

The bill would amend the Code of Criminal Procedure to include in the Code's sentencing guidelines provisions felony offenses proposed by Senate Bill 497, which would permit the interception of wire, oral, or electronic communication in the investigation of specific offenses. The bill would take effect 90 days after its enactment and is tie-barred to Senate Bill 497.

The bill would add to the sentencing guidelines all of the following, which would be categorized as Class F felonies against a person, with a statutory maximum penalty of four years' imprisonment:

- Intercepting, disclosing, or using the contents of a wire, oral, or electronic communication.
- Manufacturing, possessing, selling, or advertising an interception device.
- Improper use or disclosure of the contents of a wire, oral, or electronic communication.

The bill also would remove from the sentencing guidelines various eavesdropping offenses that would be repealed by Senate Bill 497. Those offenses are currently categorized as Class H felonies against the public order, with statutory maximum penalties of two years' imprisonment.

MCL 777.16z et al.

Legislative Analyst: P. Affholter

### **FISCAL IMPACT**

The bill would have an indeterminate fiscal impact on the State and on local units of government. The sentencing guideline grid "H" minimum sentence range (applicable to the offenses that would be repealed) varies between 0-1 month and 5-17 months. The sentencing guideline grid "F" minimum sentence range (applicable to the proposed offenses) varies between 0-3 months and 17-30 months. Minimum sentences of 18 months or less are ineligible for a State prison term, except by judicial departure. In addition, the crimes would be categorized as crimes against a person as opposed to crimes against the public order - which changes the prior record variables scored to determine minimum sentencing range.

In 1997, there were 11 offenders convicted of crimes or attempted crimes related to eavesdropping. Of those, three received prison sentences. Assuming that the number of offenders committing the new crimes would be similar to the 1997 data and that three offenders would be committed to a State prison for a period of 20 months, given that the annual cost of incarceration on average is \$22,000, the cost to the State for incarceration would be \$110,000 per year. If the remaining eight offenders received a jail sentence of six months, given that the cost varies by county between \$27 and \$65 per day, local costs would vary between \$38,880 and \$93,600 per year.

Date Completed: 5-18-99

Fiscal Analyst: K. Firestone

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Analysis available @ <http://www.michiganlegislature.org>

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