



Senate Fiscal Agency
P. O. Box 30036
Lansing, Michigan 48909-7536



BILL ANALYSIS

Telephone: (517) 373-5383
Fax: (517) 373-1986
TDD: (517) 373-0543

Senate Bills 1175 and 1176 (as enrolled)
Sponsor: Senator Tom George
Senate Committee: Judiciary
House Committee: Criminal Justice

Date Completed: 12-22-04

RATIONALE

Researchers at universities, hospitals, and private businesses sometimes use animals in their quest to learn more about the effects of various products and activities on humans, wildlife, and the environment and to develop new products, such as pharmaceuticals. Laboratories and office facilities occasionally have been vandalized by individuals and organizations protesting the use of animals in research and attempting to disrupt those research activities. In 1992, an environmental toxicology lab on the campus of Michigan State University (MSU) was vandalized, the researchers' offices were set afire, and minks used in the research were set loose in surrounding fields and roads. It has been pointed out that attacks such as the one at MSU not only damage property, but also can destroy considerable research data, deprive students of educational opportunities, and place researchers in physical danger. It has been suggested that criminal penalties should be enacted for damaging or destroying research property and that the penalties should be more severe for greater damage or injury resulting from those actions and for subsequent violations.

CONTENT

Senate Bill 1175 would amend the Code of Criminal Procedure to include in the sentencing guidelines felony offenses of damaging or destroying research property, as proposed by Senate Bill 1176.

Senate Bill 1176 would amend the Michigan Penal Code to prohibit and prescribe misdemeanor and felony penalties for damaging or destroying

another person's research property or placing an object in any research property to prevent certain research activities.

"Research" would mean any lawful activity involving the use of animals, animal products, or other animal substances, intended or used for scientific purposes, including research, testing, and experimentation. "Research property" would mean all real, personal, and intellectual property related to research belonging to or conducted by a person (an individual, educational institution, or other legal or business entity).

The bills would take effect on April 1, 2005, and Senate Bill 1175 is tie-barred to Senate Bill 1176.

Senate Bill 1175

The bill would add felony offenses of damaging or destroying research property to

Table 1

Property Value, Prior Conviction, or Injury	Felony Class & Category	Statutory Maximum
Between \$1,000 & \$20,000; or with 1 prior conviction	E- Property	5 years
\$20,000 or more; or with 2 or more 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 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, serious impairment of a body function, or death.

Senate Bill 1176

The bill would prohibit a person from damaging or destroying another person's research property with the intent to frighten, intimidate, or harass any person because of the person's participation or involvement in, or cooperation with, research; to prevent any person from engaging in any lawful profession, occupation, or activity because of this person's participation or involvement in, or cooperation with, research; or, to prevent, delay, hinder, or otherwise harm the research or use of the research.

The bill also could prohibit a person from placing any object in any research property to prevent the lawful growing, harvesting, transportation, keeping, selling, or processing of that research property.

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.

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.

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 one or more of the following:

- All research and development costs for the research property damaged or destroyed that arose out of the violation.
- 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.

Table 2

Property Value, Prior Convictions, or Injury/Death	Maximum Imprisonment	Maximum Fine
Less than \$200	93 days (misdemeanor)	\$500
\$200 or more but less than \$2,000; or less than \$200 with 1 or more prior convictions	1 year (misdemeanor)	\$2,000
\$1,000 or more but less than \$20,000; or \$200 or more but less than \$1,000 with 1 or more prior convictions	5 years (felony)	\$10,000
\$20,000 or more; or \$1,000 or more but less than \$20,000 with 2 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	15 years (felony)	\$40,000

If the prosecuting attorney intended to seek an enhanced sentence based on the defendant's having one or more prior convictions, the prosecutor would have to include on the complaint and information a statement listing the conviction or convictions. The existence of the defendant's prior conviction or convictions could be established by any evidence relevant for that purpose, including a copy of the judgment of conviction; a transcript of a prior trial, plea-taking, or sentencing; information contained in a presentence report; and/or the defendant's statement.

If the sentence for a conviction under the bill were enhanced by one or more prior

convictions, those convictions could not be used to enhance the sentence further under the Code of Criminal Procedure's habitual offender provisions (MCL 769.10, 769.11, & 769.12).

Instead of being charged with an offense under the bill, an offender could be charged with, convicted of, and punished for any other violation arising out of the same criminal transaction.

"Serious impairment of a body function" would include, but not be limited to, one or more of the following:

- The loss of a limb or the use of a limb.
- The loss of a hand, foot, finger, or thumb or the use of a hand, foot, finger, or thumb.
- The loss of an eye or ear or the use of an eye or ear.
- The loss or substantial impairment of a bodily function.
- A serious visible disfigurement.
- A comatose state lasting for more than three days.
- Any measurable brain damage or mental impairment.
- A skull fracture or other serious bone fracture.
- A subdural hemorrhage or subdural hematoma.

MCL 777.16s (S.B. 1175)
Proposed MCL 750.395 (S.B. 1176)

ARGUMENTS

(Please note: The arguments contained in this analysis originate from sources outside the Senate Fiscal Agency. The Senate Fiscal Agency neither supports nor opposes legislation.)

Supporting Argument

Early on February 28, 1992, members of the Animal Liberation Front vandalized a research facility at MSU. They poured sulfuric acid over lab equipment, torched the researchers' office suite, and released minks used in the environmental toxicology research. While no humans were injured in the 5 a.m. attack, several students reportedly had already begun their day's activities working in the building that housed the research facilities. Collectively, the researchers lost over 50 years of data and teaching material in the fire. According to testimony before the Senate Judiciary Committee by the professor who led the

research project, much of the lost data and materials was generated with an eye toward decreasing environmental pollutants, examining Great Lakes water quality, and protecting the health of both humans and wildlife. Ironically, one of the objectives of her research was to develop research methods that would minimize the use of animals in testing chemical toxicity.

The MSU incident not only destroyed research and damaged facilities, but also threatened and intimidated the researchers and their families and deprived students of quality learning opportunities. Some people involved with the project received threatening letters or phone calls, some were advised by the FBI to alter their routines, and the professor who headed the project had to counsel her young children to deny she was their mother if they were asked by strangers. One professor who was a frequent guest lecturer in environmental toxicology ceased his participation because of fear of being targeted by the vandals. Before the attack, the environmental toxicology lab had an open-door policy, welcoming students to wander in and learn about the research project. After the fire, access had to be limited to research team members.

Although actions such as those perpetrated by the individuals who attacked the MSU research lab may be prosecuted under other laws, the bills would subject similar vandals to specific appropriate punishments by establishing graduated criminal penalties for damaging or destroying research property and for preventing or interfering with research projects. Further, identifying these activities as felonies with severe penalties could deter animal rights activists and others opposed to certain types of research projects from engaging in the kind of vandalism that occurred at the MSU environmental toxicology lab.

Supporting Argument

Medical and scientific research, whether conducted at a university, industrial facility, or hospital, is an important component of Michigan's economic activity. According to testimony before the Senate Judiciary Committee on behalf of the Michigan Society for Medical Research (MISMR), an estimated 32,000 people are employed in the life sciences industry in Michigan and thousands more work in related health care and

academic fields. Scientific and medical research has been recognized as an important economic development tool, as evidenced by the State's financial and policy commitment to the development of the Life Sciences Corridor.

Violence and intimidation by various groups directed against universities and private firms engaged in life science research are a major concern and a potential impediment to the success of this economic strategy. Indeed, according to MISMR, as a result of protests and attacks, the climate for medical research in Great Britain has deteriorated to such an extent that further investment in research and development there is in jeopardy. The bills offer Michigan an opportunity to avoid the problems that Great Britain is facing, by protecting the State's considerable investment in life sciences research and enhancing its reputation as a place to conduct scientific and medical research.

Supporting Argument

The Michigan Penal Code already recognizes that various specific types of property, such as utility facilities, require enhanced protection from vandals. The law should similarly recognize the importance of research facilities.

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 new crimes, nor are there data to determine how many otherwise would be convicted under other statutes. To the extent that the bills would increase the number of offenders convicted, they would increase corrections costs. Local units incur the costs of incarceration in local facilities, which vary by county. The State incurs the cost of felony probation at an average annual cost of \$2,000, as well as the cost of incarceration in a State facility at an average annual cost of \$25,000.

Fiscal Analyst: Bethany Wicksall

SASIA0304\1175ea

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.