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Senate Bills 1175 and 1176 (as introduced 4-28-04)
 Sponsor: Senator Tom George
 Committee: Judiciary

Date Completed: 9-28-04

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 any real, personal, and intellectual property related to research belonging to or conducted by a person, institution, or business entity.

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 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 or serious impairment of a body function.

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	C- Person	15 years

Senate Bill 1176

The bill would prohibit a person from doing either of the following:

- Damaging or destroying another person's research property with the intent to frighten, intimidate, or harass any person or to prevent any person from engaging in any lawful profession, occupation, or activity.
- 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.

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	15 years (felony)	\$25,000
Death of another ^{a)}	15 years (felony)	\$40,000

^{a)} An offender could be charged, convicted, and punished, instead, with another violation arising out of the same criminal transaction.

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.

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).

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.

"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)

Legislative Analyst: Patrick Affholter

FISCAL IMPACT

The bills would have an indeterminate impact due to enforcement costs and fine revenue, which would depend on the number of convictions.

Fiscal Analyst: Bill Bowerman

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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.