



Senate Fiscal Agency
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Senate Bills 600 and 601 (as introduced 10-19-23)
Sponsor: Senator Sylvia Santana
Committee: Civil Rights, Judiciary, and Public Safety

Date Completed: 11-1-23

CONTENT

Senate Bill 601 would amend Chapter XXI (Civil Rights) of the Michigan Penal Code to do the following:

- Specify that a person would be guilty of criminal threatening if the person intentionally threatened to commit against another individual an unlawful act of violence or to damage the property of the individual in a manner that caused the victim to feel terrorized, harassed, or fearful.
- Prescribe misdemeanor or felony penalties for a first or second offense of criminal threatening, respectively.
- Prescribe an enhanced penalty for criminal threatening based on a victim's race, color, religion, gender, gender identity, sexual orientation, or national origin.
- Provide that a penalty for criminal threatening could be imposed in addition to any penalty imposed for an offense arising from the same conduct.

Senate Bill 600 would add sentencing guidelines to the Code of Criminal Procedure for felony penalties proposed by Senate Bill 601.

Senate Bill 600 is tie-barred to Senate Bill 601.

Senate Bill 601

Under the bill, a person would be guilty of criminal threatening if that person intentionally or knowingly threatened by word or conduct to commit against another individual or group of individuals an unlawful act of violence or to damage the property of the individuals in a manner that would cause a reasonable individual to feel terrorized, frightened, intimidated, threatened, harassed, or fearful and that actually caused the victims to feel terrorized, frightened, intimidated, threatened, harassed, or placed in fear. A person that committed criminal threatening would be guilty of a crime as follows:

- For a first offense, a misdemeanor punishable by up to one year's imprisonment or a maximum fine of \$1,000, or both.
- For a second or subsequent offense, a felony punishable by up to two years' imprisonment or a maximum fine of \$2,500, or both.

A person that committed criminal threatening because of the victim's race, color, religion, gender, gender identity, sexual orientation, or national origin would be guilty of a felony punishable by up to two years' imprisonment or a maximum fine of \$5,000, or both.

In a prosecution for criminal threatening, evidence that the defendant continued to engage in a course of conduct involving repeated unconsented contact with the victim after the victim requested that the defendant discontinue the same or a different form of unconsented contact

and refrain from any further unconsented contact with the victim would give rise to a rebuttable presumption that the continuation of the course of conduct caused the victim to feel terrorized, frightened, intimidated, threatened, or harassed.

("Course of conduct would mean a pattern of conduct composed of a series of two or more separate noncontinuous acts evidencing a continuity of purpose. "Unconsented contact" would mean any contact with another individual that is initiated or continued without that individual's consent or in disregard of that individual's expressed desire that the contact be avoided or discontinued.)

If the prosecuting attorney intended to seek an enhanced sentence based on the defendant having one or more prior convictions, the prosecuting attorney would have to include on the complaint and information a statement listing the prior conviction or convictions. The existence of the defendant's prior conviction or convictions would have to be determined by the court, without a jury, at sentencing or at a separate hearing for that purpose before sentencing. The existence of a prior conviction could be established by any evidence relevant for that purpose, including one or more of the following:

- A copy of the judgment of conviction.
- A transcript of a prior trial, plea-taking, or sentencing.
- Information contained in a presentence report.
- The defendant's statement.

A criminal penalty could be imposed under the bill in addition to any penalty that could be imposed for any other criminal offense arising from the same conduct or for any contempt of court arising from the same conduct.

Senate Bill 600

The bill would amend the Code of Criminal Procedure to make criminal threatening based upon certain characteristics of a victim a Class G felony against a person with a statutory maximum sentence of two years' imprisonment. It also would make a second or subsequent offense of criminal threatening a Class G felony with a statutory maximum sentence of two years' imprisonment.

MCL 777.16g (S.B. 600)
750.147b (S.B. 601)

Legislative Analyst: Tyler P. VanHuyse

FISCAL IMPACT

Senate Bill 601

The bill's criminal penalties could have a negative fiscal impact on the State and local government. Violations would be punishable as misdemeanors and felonies of different severity. More misdemeanor and felony arrests and convictions could increase resource demands on law enforcement, court systems, community supervision, jails, and correctional facilities. Misdemeanor convictions could increase county jail and local probation supervision costs, which vary by jurisdiction and are thus indeterminate. Based on 2022 data, the average cost to State government for felony probation supervision is approximately \$4,800 per probationer per year. For any increase in prison intakes the average annual cost of housing a prisoner in a State correctional facility is an estimated \$45,700. Per diem rates for housing a prisoner in a state correctional facility range from \$98 to \$192 per day, depending on the security level of the facility. Additionally, any associated fine revenue would increase funding to public libraries.

Senate Bill 600

The bill would have no fiscal impact on local government and an indeterminate fiscal impact on the State, considering the Michigan Supreme Court's July 2015 opinion in *People v. Lockridge*, in which the Court ruled that the sentencing guidelines are advisory for all cases. This means that the addition to the guidelines under the bill would not be compulsory for the sentencing judge. As penalties for felony convictions vary, the fiscal impact of any given felony conviction depends on judicial decisions.

Fiscal Analyst: Joe Carrasco, Jr.
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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.