



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

BILL ANALYSIS



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

Senate Bill 986 (Substitute S-1 as reported by the Committee of the Whole)
Sponsor: Senator Jon Cisky
Committee: Judiciary

CONTENT

The bill would create a new act, which would take effect on October 1, 1997, and be repealed on October 1, 2000, to permit the interception of wire, oral, or electronic communication pursuant to judicial authorization in the investigation of specific drug-related offenses, and to do all of the following:

- Permit the contents of an intercepted communication or evidence derived from it to be used or disclosed by an investigative or law enforcement officer in the performance of his or her duties, or to be disclosed by a person giving testimony.
- Prohibit a prosecuting attorney from authorizing an application to intercept a communication unless the Attorney General or his or her designee approved the authorization.
- Prohibit the disclosure or use of the contents of a communication that was wrongfully intercepted.
- Prohibit the manufacture, possession, sale, or advertisement of devices primarily used for the interception of communication.
- Allow a party to an intercepted communication, or a person against whom interception was directed, to move to suppress evidence of the contents of the communication or evidence derived from it.
- Require the development of a communication interception training program for law enforcement officers.
- Require the notification of the Department of State Police of a communication interception application. (If the proposed interception would overlap, conflict with, hamper, or interfere with, another proposed or authorized interception, the Department Director would have to advise the judge and coordinate any subsequent interceptions.)
- Create a civil cause of action for victims of a wrongful interception and make good faith reliance on an authorization a defense to civil or criminal liability.

Legislative Analyst: P. Affholter

FISCAL IMPACT

State Police/Law Enforcement: The bill would require the Department of State Police to develop a wiretapping and electronic surveillance course for which it could charge local law enforcement agencies a fee, which would offset the costs of training. There would be some "up front" costs to the State Police to develop this course and there also would be additional costs to local agencies for enrolling in the course.

The bill also would require the State Police to issue an annual report concerning applications, orders, and interceptions of wire, oral, and electronic communications. This would create additional administrative costs for the Department.

Costs associated with the use of communication interception by law enforcement would depend on the extent to which it was used. The bill does not contain mandated costs and the cost of communication interception would be funded from the law enforcement agencies' resources.

Corrections: The new penalties in the bill for disclosing the contents of a wrongfully intercepted communication, and for manufacturing, possessing or selling an interception device, could increase costs for prosecuting and sanctioning violators. There are insufficient data available at this time to estimate the potential number of annual violators.

In addition, to the extent that the bill resulted in increased convictions, State and local criminal justice costs would increase. In 1995, there were over 8,100 convictions for a drug-related offense, nearly 1,800 (22%) receiving a prison sentence, with an average minimum sentence of 2.2 years. For example, an increase in annual convictions of 10 offenders, each receiving a two-year sentence, would cost an additional \$300,000 annually.

Date Completed: 12-4-96

Fiscal Analyst: B. Baker
M. Hansen
B. Bowerman