



**House
Legislative
Analysis
Section**

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**SENTENCING GUIDELINES: TECH
AMENDMENTS**

**House Bill 5389 as enrolled
Public Act 28 of 2002
Sponsor: Rep. William McConico**

**House Bill 5390 as enrolled
Public Act 29 of 2002
Sponsor: Rep. William J. O’Neil**

**House Bill 5391 as enrolled
Public Act 30 of 2002
Sponsor: Rep. Jennifer Faunce**

**House Bill 5393 as enrolled
Public Act 34 of 2002
Sponsor: Rep. Jennifer Faunce**

**House Committee: Criminal Justice
Senate Committee: Judiciary**

Second Analysis (3-27-02)

House Bills 5389-5391 and 5393 (3-27-02)

THE APPARENT PROBLEM:

Chapter XVII of the Code of Criminal Procedure, entitled “Sentencing Guidelines”, contains the statutory maximum terms of imprisonment for felony violations of state and local laws. Whenever a term of imprisonment for a crime is changed, or if a provision pertaining to a crime is moved from one section of the law to another, the corresponding section or sections of the sentencing guidelines must be amended to reflect the change. This year alone, Section 12 (which contains the maximum sentences for over 80 felonies enumerated in Chapters 200 to 299 of the Michigan Compiled Laws), has been amended four times, with another three bills that would amend it further still pending in the House and Senate. This has necessitated the drafting of many substitute bills so that changes in the law were not erased by subsequently enacted bills. Some believe that breaking up these larger sections of the sentencing guidelines into smaller ones could reduce the number of “conflict” substitutes needed when multiple bills amending the same section of law are being acted on within a short time period of each other. To address this issue, it has been suggested that sections of the sentencing guidelines that

encompass many felony references be broken into several smaller sections.

THE CONTENT OF THE BILLS:

The bills would amend several sections of the Code of Criminal Procedure to make technical changes relating to how the guidelines for maximum sentences are organized. The bills, with the exception of a provision contained in House Bill 5393, would take effect April 1, 2002. Specifically, the bills would do the following:

House Bill 5389 would amend the Code of Criminal Procedure to add several sections to Chapter XVII (MCL 777.17 et al.). Currently, Section 17 contains the statutory maximum sentence of imprisonment for felonies enumerated in Chapters 751 to 830 of the Michigan Compiled Laws. Instead, the bill would place them in Sections 17a to 17g. Further, the bill would amend a few compiled law citations that had been recorded incorrectly.

House Bill 5390 would amend the Code of Criminal Procedure to add new sections to Chapter XVII

(MCL 777.14 et al.) to reorganize the statutory maximum sentences for felonies enumerated in Chapters 400 to 499 of the Michigan Compiled Laws. Currently, sentencing guidelines for these felonies are contained within Section 14; the bill would instead place them in Sections 14a to 14p.

House Bill 5391 would amend the Code of Criminal Procedure to add new sections to Chapter XVII (MCL 777.13 et al.) to reorganize the statutory maximum sentences for felonies enumerated in Chapters 300 to 399 of the Michigan Compiled Laws. Currently, all of the sentencing guidelines for these felonies are contained within Section 13; the bill would instead place them in Sections 13a to 13p.

House Bill 5393 would amend the Code of Criminal Procedure to add new sections to Chapter XVII (MCL 777.12 et al.) to reorganize the statutory maximum sentences for felonies enumerated in Chapters 200 to 299 of the Michigan Compiled Laws. Currently, all of the sentencing guidelines for these felonies are contained within Section 12; the bill would instead place them in Sections 12a to 12n. The bill would also make a technical change to a compiled laws citation that references a provision in the aeronautics code amended by Senate Bill 541, which became Public Act 35 of 2002, and would specify that this provision would take effect May 15, 2002. Finally, the bill would incorporate sentencing guidelines contained in Senate Bill 505, which became Public Act 24 of 2002. (Senate Bill 505 was the companion bill to Senate Bill 541.)

FISCAL IMPLICATIONS:

According to the House Fiscal Agency, the bills have no fiscal implications. (11-7-01)

ARGUMENTS:

For:

It is not unusual for multiple bills introduced in the same session to be amending the same section of law. When this happens, “conflict” substitutes must be drafted so that changes made by a recently enrolled bill are not inadvertently “wiped out” by a subsequent one. This year, several bills have amended certain sections of the Code of Criminal Procedure containing sentencing guidelines for felony offenses. Section 12 of Chapter XVII of the code has already been amended four times this year, and two other bills (in addition to one of the bills in this package) would also amend this section. With close to 100 felony offenses lumped into this section,

each substitute bill has been eight pages or longer. Some have suggested that if the sections of the code containing sentencing guidelines were broken up into smaller sections, that fewer conflict substitutes (as they are known) would be needed. In addition, the substitute bill would likely be shorter, which would save printing costs as well as time needed to read the bill in order to identify the proposed changes. The bill package would amend several sections of the chapter on sentencing guidelines to break the long MCL sections into smaller ones. For example, instead of all of the felonies enumerated in chapters 200 to 299 of the MCL being placed in a single section of the Code of Criminal Procedure, felonies enumerated in chapters 200 to 219 of the MCL would be placed in Section 12a, felonies enumerated in 220 to 256 of the MCL would be placed in Section 12b, and so forth.

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■ This analysis was prepared by nonpartisan House staff for use by House members in their deliberations, and does not constitute an official statement of legislative intent.