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Senate Bill 454 (Substitute S-1 as reported)  
Senate Bill 455 (Substitute S-1 as reported by the Committee of the Whole)  
Sponsor: Senator Valde Garcia  
Committee: Judiciary

## **CONTENT**

Senate Bill 454 (S-1) would amend the Michigan Penal Code to extend increased criminal penalties to embezzlement from nonprofit charitable organizations organized under Section 501(c)(3) of the Internal Revenue Code; prescribe new criminal penalties for embezzlement involving \$50,000 or more; and allow the sentencing court to order consecutive terms of imprisonment for embezzlement and any other criminal offense under certain circumstances.

The Code prescribes various criminal penalties for embezzlement by an agent, servant or employee, depending on the value of the money or personal property embezzled. Under the Code, if the value is \$200 or more, but less than \$1,000, the penalty is up to one year's imprisonment and/or a maximum fine of \$2,000 or three times the value. Under the bill, a person who embezzled less than \$200 from a Section 501(c)(3) organization would be subject to the same penalty.

If the value is at least \$1,000 but less than \$20,000, or is at least \$200 but less than \$1,000 and the person has a prior conviction for embezzlement, the penalty is up to five years' imprisonment and/or a maximum fine of \$10,000 or three times the value. Under the bill, that penalty would apply to a person who embezzled money or property worth at least \$200 but less than \$1,000 from a 501(c)(3) organization or who embezzled money or property worth less than \$200 from such an organization and had a prior conviction for embezzlement.

If the value is \$20,000 or more, or is at least \$1,000 but less than \$20,000 and the person has two or more prior convictions for embezzlement, the penalty is up to 10 years' imprisonment and/or a maximum fine of \$15,000 or three times the value. Under the bill, that penalty would apply to any embezzlement involving a value of at least \$20,000 but less than \$50,000, and to embezzlement from a 501(c)(3) organization involving at least \$1,000 but less than \$20,000, or embezzlement from such an organization involving at least \$200 but less than \$1,000 by a person who had two or more prior convictions for embezzlement.

In addition, under the bill, embezzlement involving a value of at least \$50,000 but less than \$100,000 would be punishable by up to 15 years' imprisonment and/or a maximum fine of \$25,000 or three times the value of the money or property embezzled. Embezzlement involving \$100,000 or more would be punishable by up to 20 years' imprisonment and/or a maximum fine of \$50,000 or three times the value of the money or property embezzled.

Further, the bill specifies that the court could order a term of imprisonment imposed for a felony embezzlement violation to be served consecutively to any term of imprisonment for

any other criminal offense, if the embezzlement victim were a 501(c)(3) organization, a person at least 60 years of age, or a "vulnerable adult" as that term is defined elsewhere in the Code (i.e., an individual at least 18 who, because of age, developmental disability, mental illness, or physical disability, requires supervision or personal care or lacks the personal and social skills required to live independently; a person placed in an adult foster care family home or an adult foster care small group home; or a vulnerable person not less than 18 who is suspected of being or believed to be abused, neglected, or exploited).

Senate Bill 455 (S-1) would amend the Code of Criminal Procedure to include felony violations for embezzlement from a nonprofit organization in the existing sentencing guidelines. The offense would be a Class E property felony if the value were \$200 or more but less than \$1,000, or a Class D property felony if the value were at least \$1,000 but less than \$20,000.

The bill also would add sentencing guidelines classifications for embezzlement of at least \$50,000 but less than \$100,000 and embezzlement of \$100,000 or more. Those offenses would be classified as Class C and Class B property felonies, respectively.

MCL 750.174 (S.B. 454)  
777.16i (S.B. 455)

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 embezzling \$50,000 or more, or embezzling from a nonprofit corporation, a person 60 years of age or older, or a vulnerable adult. In 2003, 578 offenders were convicted of felony embezzlement and 122 offenders were convicted of attempting to commit felony embezzlement. Of these 700 offenders, 78 were sentenced to prison, 519 were sentenced to probation, 32 were sentenced to jail, and 71 received other types of sentences, such as a delayed or suspended sentence. There are no data to indicate the number of misdemeanor convictions for embezzlement.

An offender convicted of the Class B offense under the bills would receive a sentencing guidelines minimum sentence range of 0-18 months to 117-160 months. An offender convicted of the Class C offense would receive a sentencing guidelines minimum sentence range of 0-11 months to 62-114 months. An offender convicted of the Class D offense would receive a sentencing guidelines minimum sentence range of 0-6 months to 43-76 months. An offender convicted of the Class E offense would receive a sentencing guidelines minimum sentence range of 0-3 months to 24-38 months. To the extent that the bills would result in increased sentences to incarceration or increased time spent incarcerated, local governments would incur increased costs of incarceration in local facilities, which vary by county. The State would incur increased costs of felony probation at an annual average cost of \$2,000, as well as increased costs of incarceration in a State facility at an average annual cost of \$30,000. Additional penal fine revenue would benefit public libraries.

Date Completed: 10-11-06

Fiscal Analyst: Lindsay Hollander

#### Floor\sb454

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.