

# Legislative Analysis

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## REVISE PENALTIES FOR SMURFING

Phone: (517) 373-8080  
<http://www.house.mi.gov/hfa>

**Senate Bill 409 as passed by the Senate**  
**Sponsor: Sen. Margaret E. O'Brien**

Analysis available at  
<http://www.legislature.mi.gov>

**Senate Bill 410 as passed by the Senate**  
**Sponsor: Sen. Tom Casperson**

**House Committee: Criminal Justice**  
**Senate Committee: Judiciary**  
**Complete to 2-22-16**

## SUMMARY:

Senate Bill 409 would add a criminal penalty for *attempting* to solicit another person to purchase ephedrine or pseudoephedrine knowing that it is to be used to manufacture methamphetamine or "meth." Senate Bill 410 would make a technical revision in the sentencing guidelines for soliciting a person to purchase or obtain ephedrine or pseudoephedrine to manufacture methamphetamine. The bills would take effect 90 days after enactment.

The bills are identical to House Bills 4767 and 4768; those bills have passed the House and are pending Senate committee action.

Generally speaking, "smurfing" refers to the practice by criminal enterprises of making many small purchases of behind-the-counter cold and allergy medications containing ephedrine and pseudoephedrine from numerous retailers, as well as using others to make such purchases, in order to make methamphetamine or "meth."

Senate Bill 409 amends the Public Health Code (MCL 333.7340c). Currently, it is a felony to solicit another person to purchase or otherwise obtain any amount of ephedrine or pseudoephedrine knowing that it is to be used for the purpose of illegally manufacturing methamphetamine.

Under the bill, a person who *attempted* to violate the above prohibition would be guilty of a misdemeanor punishable by imprisonment for not more than one year and/or a fine of not more than \$1,000.

Senate Bill 410 amends the sentencing guidelines portion of the Code of Criminal Procedure to make a technical change to clarify that the reference to soliciting another person to purchase or obtain ephedrine or pseudoephedrine to manufacture meth pertains to the felony violation and not the violation of attempting to do the same added by Senate Bill 409, which is a misdemeanor (MCL 777.13m). The bill is tie-barred to Senate Bill 409 or House Bill 4767.

## **FISCAL IMPACT:**

Senate Bill 409: To the extent that the bill results in a greater number of convictions, it would increase costs on local correctional systems. New misdemeanor convictions would increase costs related to county jails and/or local misdemeanor probation supervision. The costs of local incarceration in a county jail and local misdemeanor probation supervision vary by jurisdiction. Any increase in penal fine revenues would increase funding for local libraries, which are the constitutionally-designated recipients of those revenues.

The bill would have an indeterminate fiscal impact on the judiciary and local court funding units. The fiscal impact would depend on how the provisions of the bill affected caseloads and related administrative costs.

Senate Bill 410: In amending the sentencing guidelines, the bill does not have a direct fiscal impact on state or local units of government.

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