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BILL



ANALYSIS

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House Bill 4367 (Substitute S-1 as reported by the Committee of the Whole)

Sponsor: Representative Frank M. Fitzgerald

House Committee: Judiciary and Civil Rights

Senate Committee: Judiciary

CONTENT

The bill would amend the Michigan Penal Code to add Chapter 25A regarding criminal enterprises. The bill would prohibit a person from knowingly conducting or participating in an enterprise's affairs through a pattern of racketeering activity. "Racketeering" generally would mean committing, attempting to commit, or conspiring to commit any of the bill's more than 30 listed offenses for financial gain; "pattern of racketeering activity" would mean at least two related incidents of racketeering within 10 years that amounted to or posed a threat of continued criminal activity.

A person convicted of a pattern of racketeering activity would be subject to a maximum of 20 years' imprisonment, a fine of up to \$100,000, or both. The court would have to order the offender to forfeit any personal, real, or intangible property in which he or she had an interest that was used in, intended for use in, derived from, or realized through the pattern of racketeering activity. The court also could order the offender to pay for costs of investigation and prosecution, and could impose additional economic sanctions, such as ordering the enterprise's dissolution or reorganization.

All property that was the proceeds, substitute proceeds, or an instrumentality of racketeering would be subject to civil *in rem* forfeiture to a local unit or the State. The bill would not preclude a prosecuting agency from pursuing forfeiture under other Michigan laws. The bill would not allow the interruption of legitimate activities unrelated to racketeering activity if interruption would cause harm to an enterprise's innocent employees or members.

MCL 750.159e-750.159w

Legislative Analyst: P. Affholter

FISCAL IMPACT

The bill would have an indeterminate fiscal impact on State and local government.

The new prison penalty created in the bill could increase costs for the Department of Corrections to the extent that the sentence imposed under the bill would exceed the sentence of the underlying felony for which the offender otherwise would be sentenced. If, for example, because of this bill, five offenders were sentenced each year for an additional five years' imprisonment, costs after five years would increase by approximately \$375,000 annually. There are no data currently available that might indicate how many increased sentences could result because of the bill.

Fines collected by the court under this bill would depend on the number of convictions.

Date Completed: 6-15-95

Fiscal Analyst: M. Hansen
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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.