

DAMAGING WAR MEMORIAL OR MONUMENT

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Senate Bill 949

Sponsor: Sen. Randy Richardville

House Committee: Judiciary

Senate Committee: Senior Citizens and Veterans Affairs

Complete to 8-25-10

A SUMMARY OF SENATE BILL 949AS PASSED BY THE SENATE 11-10-09

The bill would:

- increase the maximum fines that could be imposed on the misdemeanor offenses of maliciously damaging or destroying gravestones, tombs, and monuments;
- specifically include destruction or mutilation of war memorials and war monuments in the offense;
- allow a court to require community service for misdemeanor offenses; and
- if the offense involved damage to a war memorial or monument, require the community service to be served in a veterans home or veterans service organization.

In 1998, Public Act 13 created a four-tiered penalty structure for various larceny offenses, including willfully destroying, mutilating, defacing, injuring, or removing a tomb, monument, gravestone, or other structure designed for a memorial of the dead; a fence, railing, curb, or other thing for the protection or ornament of those items; and any plants, shrubs, or trees within the enclosure.

Under the four-tier structure, if the property involved was valued at less than \$200, the offense is a misdemeanor punishable by up to 93 days in jail, and/or a maximum fine of \$500 or three times the value of the property, whichever is greater. If the property is worth at least \$200 but less than \$1,000, the offense is a misdemeanor punishable by up to one year in jail, and/or a maximum fine of up to \$2,000 or three times the value of the property, whichever is greater. If the property is worth more than \$1,000 but less than \$20,000, the offense is a felony punishable by up to five years in prison, and/or a maximum fine of \$10,000 or three times the value of the property, whichever is greater. If the property is worth \$20,000 or more, the offense is a felony punishable by up to ten years in prison and/or a fine of up to \$15,000 or three times the value of the property, whichever is greater. In addition, repeat offenses are subject to enhanced penalties.

Senate Bill 949 would amend the Michigan Penal Code. First, the bill would specifically include a war memorial and war monument in the list of protected memorials for the dead.

Next, the bill would increase the maximum fine that could be imposed for a misdemeanor offense and add community service. If the total damage was less than \$200, the

maximum fine would be increased from \$500 to \$1,000 and the court could require not more than 100 hours of community service. For total damages of \$200 or more but less than \$1,000, or for a subsequent offense involving damage less than \$200, the maximum fine would be increased from \$2,000 to \$5,000 and the court could impose not more than 200 hours of community service. If the damage was done to a war memorial or war monument, the community service would have to be performed in a veterans home or for a veterans service organization.

The bill would take effect 90 days after enactment.

MCL 750.387

FISCAL IMPACT:

The bill revises current law to increase the punishment for destroying or damaging tombs, monuments, gravestones and other structures. Under current law, punishment for damaging or destroying a tomb, monument, gravestone or other structure is based on the cost of the damage done to the structure and any prior conviction for this offense by the violator.

If the amount of damage is less than \$200, the violator is guilty of a misdemeanor under current law punishable by imprisonment of not more than 93 days and/or a fine of not more than \$500.00 or three times the amount of damage, whichever is greater. Under the bill, the potential fine would be increased to \$1,000 or three times the amount of the damage, whichever is greater. In addition, the bill adds up to 100 hours of community service to the punishment.

Likewise, if the amount of damage is \$200 or more but less than \$1,000, or if the person found guilty has one or more prior convictions for a similar offense, the violator is currently guilty of a misdemeanor punishable under current law by imprisonment of not more than one year and/or a fine of not more than \$2,000.00 or three times the amount of damage, whichever is greater. Under the bill, the potential fine would be increased to \$5,000 or three times the amount of the damage, whichever is greater. In addition, the bill adds not more than 200 hours of community service to the punishment.

As such, the bill could increase penal fine revenues to the extent that persons are convicted of these crimes and assessed the higher fine levels allowed by the bills. Any increased revenues would increase funding for local libraries, which are the constitutionally-designated recipients of those revenues.

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