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## BILL ANALYSIS

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House Bill 5105 (as passed by the House)  
Sponsor: Representative William Van Regenmorter  
House Committee: Criminal Justice  
Senate Committee: Judiciary

Date Completed: 5-10-04

**CONTENT**

**The bill would amend the Michigan Penal Code to specify that certain larceny offenses would include acts that occurred in an attempt to commit the larceny, during the commission of the larceny, in flight or attempted flight after the larceny was committed, or in an attempt to retain possession of the stolen property.**

**The bill also would do both of the following:**

- Include in the offense of armed robbery a representation by the offender to the victim or any other person who was present that he or she possessed a dangerous weapon.**
- Include in the offense of carjacking using or threatening to use force or violence against, or putting in fear, any person lawfully attempting to recover the stolen vehicle.**

The bill would take effect on July 1, 2004.

Unarmed Robbery

Under the Code, if a person who is not armed with a dangerous weapon, by force and violence, or by assault or putting in fear, feloniously robs, steals, and takes from the person of another, or in his presence, any money or other property that may be the subject of larceny, the offender is guilty of a felony punishable by up to 15 years' imprisonment.

The bill specifies, instead, that a person who, "in the course of committing a larceny" of any money or other property that could be the subject of larceny, used force or violence against any person who was present, or who assaulted or put the person in fear, would be guilty of a felony. The bill would retain the penalty. Under the bill, "in the course of committing a larceny" would include acts that occurred in an attempt to commit the larceny, during commission of the larceny, in flight or attempted flight after the commission of the larceny, or in an attempt to retain possession of the property.

Armed Robbery & Assault

Under the Code, a person is guilty of a felony punishable by imprisonment for life or any term of years, if he or she assaults another and feloniously robs, steals, and takes from that person, or in his or her presence, any money or other property that may be the subject of larceny, if the robber is armed with a dangerous weapon, or any article used or fashioned in

a manner to lead the other person reasonably to believe it to be a dangerous weapon. If an aggravated assault or serious injury is inflicted by a person while committing an armed robbery, the sentence must be at least two years' imprisonment.

Under the bill, instead, a person would be guilty of a felony if he or she engaged in conduct prohibited under the larceny provision and, in the course of engaging in that conduct, possessed a dangerous weapon or an article used or fashioned in a manner to lead any person present reasonably to believe the article was a dangerous weapon, or represented orally or otherwise that he or she was in possession of a dangerous weapon. The bill would retain the penalty.

### Carjacking

Under the Code, a person is guilty of carjacking if he or she, by force or violence, or by threat of force or violence, or by putting in fear, robs, steals, or takes a motor vehicle from another person, while in the presence of that person or of a passenger or any other person in lawful possession of the motor vehicle. Carjacking is a felony punishable by imprisonment for life or any term of years. A sentence imposed for carjacking may be imposed to run consecutively to any other sentence imposed for a conviction arising out of the same transaction.

The bill specifies instead that a person would be guilty of carjacking if he or she, in the course of committing a larceny of a motor vehicle, used force or violence or the threat of force or violence or put in fear any operator, passenger, or person in lawful possession of the motor vehicle, or any person lawfully attempting to recover the motor vehicle. The bill would retain the penalty. Under the bill, "in the course of committing a larceny of a motor vehicle" would include acts that occurred in an attempt to commit the larceny, during the commission of the larceny, in flight or attempted flight after the commission of the larceny, or in an attempt to retain possession of the motor vehicle.

MCL 750.529-750.530

Legislative Analyst: Patrick Affholter

### **FISCAL IMPACT**

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

To the extent that it would expand the circumstances under which offenders may be charged and increase the numbers of offenders who are charged for unarmed robbery, armed robbery, and carjacking, rather than for other less serious offenses, the bill would potentially increase average sentence lengths and therefore increase corrections costs. Local units of government incur the cost of incarceration in a local facility, which varies by county. The State incurs the cost of incarceration in a State facility, at an average annual cost of \$28,000.

Fiscal Analyst: Bethany Wicksall

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