

Legislative Analysis



HARBORING/CONCEALING A FUGITIVE

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Senate Bill 1146 (Substitute H-1)

Sponsor: Sen. Alan L. Cropsey

Senate Bill 1147 as passed by the Senate

Sponsor: Sen. Gerald Van Woerkom

House Committee: Judiciary

Senate Committee: Judiciary

First Analysis (6-7-06)

BRIEF SUMMARY: The bills would increase the maximum penalty for concealing or harboring a fugitive, prohibit and create misdemeanor and felony penalties for concealing or harboring a person who is subject to an arrest or bench warrant, and place the felony penalty within the sentencing guidelines.

FISCAL IMPACT: The bills' fiscal impact would depend on how they affected misdemeanor and felony convictions and sentences. Any increased costs of misdemeanor probation supervision or incarceration would be borne by local units of government; such costs vary by jurisdiction. Any increased costs of felony probation supervision or incarceration would be borne by the state. Parole and probation supervision averages about \$2,000 per supervised offender per year, while prison incarceration averages about \$30,000 per prisoner per year. Any increase in penal fine revenues could benefit local libraries, which are the constitutionally-designated recipients of those revenues.

THE APPARENT PROBLEM:

Michigan law makes it a crime to harbor a person who has escaped from jail, prison, or police custody, but does not make it a crime to harbor a person who is wanted on criminal charges or for civil infractions. According to the Department of State Police, people wanted by the police often hide out at the homes of friends and family. Even when the police know that the individual is in a house, the residents typically deny to officers that the person is there. Some feel that if it were a crime to harbor or conceal from police a person wanted on a bench or arrest warrant, than many more of the 460,000 wanted on outstanding warrants could be apprehended.

THE CONTENT OF THE BILLS:

Currently, it is a misdemeanor to knowingly or willfully conceal, or harbor for the purpose of concealment, a person who has escaped or is escaping from lawful custody. The penalty for a violation is imprisonment for not more than 90 days and/or a fine of not more than \$500.

Senate Bill 1146 would amend the Michigan Penal Code (MCL 750.199) to 1) increase the maximum term of imprisonment for the above offense to not more than 93 days, and 2) apply the penalty in situations when the purpose of concealment was to conceal the person from a peace officer. The bill would also make it a misdemeanor to knowingly or willfully conceal or harbor for the purpose of concealment from a peace officer a person who was subject to an arrest warrant for a misdemeanor, subject to a bench warrant in a civil case, or subject to a bench warrant in a criminal case if the underlying crime charged was a misdemeanor or a civil infraction. A violation would be punishable by imprisonment for not more than 93 days and/or a fine of not more than \$500. "Peace officer" would mean that term as defined in Section 215 of the code.

It would be a felony to knowingly or willfully conceal or harbor for the purpose of concealment a person who was the subject of an arrest warrant for a felony or a bench warrant in a criminal case if the underlying crime charged was a felony. A violation would be punishable by imprisonment for not more than four years and/or a \$5,000 fine.

The bill would take effect 90 days after enactment.

Senate Bill 1147 would amend the Code of Criminal Procedure (777.16j) to specify that harboring a person for whom a felony warrant has been issued is a Class F felony against the public safety with a maximum term of imprisonment of four years. The bill is tied to Senate Bill 1146.

HOUSE COMMITTEE ACTION:

The committee substitute applied the penalties to actions of concealment from a peace officer (except for harboring or concealing a person wanted on a felony charge) and specified that "peace officer" would mean that term as defined in the code.

ARGUMENTS:

For:

The bills are aimed at those who harbor or conceal parole violators, absconders, escapees, and those for whom an arrest warrant has been issued. All too often, the individuals being sought hide out in the homes of friends and family who deny to police that the wanted individual is there. It already is a crime to harbor or conceal an escapee; Senate Bill 1146 would increase the maximum term of imprisonment from 90 days to 93 days, which would trigger fingerprint and record retention requirements, i.e., a copy of the person's fingerprints would go into the national fingerprint database maintained by the FBI.

A violation would be triggered when an individual knowingly or willfully harbored or concealed the wanted person from a peace officer. The penalty for concealing an individual for whom an arrest warrant had been issued would be a misdemeanor or felony, depending on the underlying case for which the warrant had been issued.

Establishing these penalties should aid law enforcement officers in their efforts to capture escapees and those avoiding arrest.

Against:

Senate Bill 1146 does not restrict the penalties to only those persons who tell a peace officer that the wanted individual is not present; merely having the wanted individual on the premises could subject the person to criminal sanctions. It also does not exempt persons who told officers the wanted individual was not there under duress, such as at gunpoint. Furthermore, as reported from committee, it creates a criminal penalty for someone housing a friend or relative wanted on outstanding parking tickets or back child support. This is a harsher penalty than the one who didn't pay his or her parking tickets or child support would face, and harsher than harboring a prison escapee. At the least, the bill should be amended to apply only to harboring individuals wanted in criminal cases.

Response:

A floor amendment (adopted 6-7-06) addresses this issue by excluding civil infractions. Bench warrants in civil cases would continue to be covered by the bill.

POSITIONS:

The Department of State Police indicated support for Senate Bill 1146. (5-31-06)

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