

Legislative Analysis



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

PROHIBIT TORTURE

House Bill 5268

Sponsor: Tom Meyer

House Bill 5269

Sponsor: Rep. Mike Nofs

Committee: Judiciary

Complete to 10-31-05

A SUMMARY OF HOUSE BILLS 5268 AND 5269 AS INTRODUCED 10-6-05

House Bill 5268 would add a new section to the Michigan Penal Code (MCL 750.85) to make it a felony punishable by imprisonment for life or any term of years to torture another person. "Torture" would mean an act specifically intended to inflict great bodily injury or severe mental pain or suffering upon another person within his or her custody or physical control. Proof that a person suffered pain would not be an element of the crime of torture. In addition, a conviction or sentence under the bill would not preclude a conviction or sentence for a violation of any other law of the state arising from the same transaction. The bill would take effect January 1, 2006.

"Great bodily injury" would mean a significant or substantial physical injury. "Severe mental pain or suffering" would mean the prolonged mental harm caused by or resulting from intentional or threatened infliction of severe physical pain or suffering; the administration or application, or the threat to do so, of mind-altering substances or other procedures calculated to profoundly disrupt the senses or the personality; the threat of imminent death; and/or the threat that another person would imminently be subjected to the above actions.

House Bill 5269 would amend the Code of Criminal Procedure (MCL 777.16d) to specify that torture would be a Class A felony against a person with a maximum term of imprisonment of life. The bill is tie-barred to House Bill 5269 and would take effect January 1, 2006.

FISCAL IMPACT:

Depending on how they affected numbers of convictions and sanctions imposed, the bills could increase state correctional costs, which average about \$29,000 per prisoner per year. Local costs likely would not be affected because the offense would be classified as a Class A offense, for which sentencing guidelines mandate a prison sentence, absent judicial departure from the guidelines.

Legislative Analyst: Susan Stutzky
Fiscal Analyst: Marilyn Peterson

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