



Senate Fiscal Agency  
P. O. Box 30036  
Lansing, Michigan 48909-7536



Telephone: (517) 373-5383  
Fax: (517) 373-1986  
TDD: (517) 373-0543

Senate Bill 1146 (Substitute S-1 as reported)  
Senate Bill 1147 (as reported without amendment)  
Sponsor: Senator Alan L. Cropsey (S.B. 1146)  
Senator Gerald Van Woerkom (S.B. 1147)  
Committee: Judiciary

Date Completed: 3-28-06

### **RATIONALE**

Michigan law prohibits and provides penalties for protecting a person who committed a crime (i.e., being an accessory after the fact), and for concealing or harboring a person who has escaped or is escaping from lawful custody. There is no criminal penalty, however, for concealing or harboring a person who is wanted on an arrest or bench warrant. This evidently is problematic for law enforcement agencies and officers because a person cannot be charged with a crime if he or she conceals or harbors a wanted person, unless that person is an escapee or is eluding police after or while committing a crime. It has been suggested that the Michigan Penal Code should include a prohibition against harboring or concealing a person subject to a warrant, and that felony penalties should apply if the person harbored or concealed is wanted on a felony warrant.

### **CONTENT**

**Senate Bills 1146 (S-1) and 1147 would amend the Michigan Penal Code and the Code of Criminal Procedure, respectively, to do all of the following:**

- **Prescribe criminal penalties for knowingly or willfully concealing, or harboring for the purpose of concealment, a person who was subject to an arrest warrant or a bench warrant.**
- **Increase the maximum penalty for concealing or harboring an escapee from custody.**
- **Include a felony offense in the sentencing guidelines.**

Senate Bill 1147 is tie-barred to Senate Bill 1146.

### **Senate Bill 1146 (S-1)**

Under the Michigan Penal Code, it is a misdemeanor for a person knowingly or willfully to conceal, or harbor for the purpose of concealment, a person who has escaped or is escaping from lawful custody. The offense is punishable by up to 90 days' imprisonment, a maximum fine of \$500, or both. The bill would increase the maximum term of imprisonment to 93 days.

Under the bill, it would be a misdemeanor punishable by up to 93 days' imprisonment and/or a maximum fine of \$500 for a person knowingly or willfully to conceal, or harbor for the purpose of concealment, a person who was the subject of one or more of the following:

- An arrest warrant for a misdemeanor.
- A bench warrant in a civil case.
- A bench warrant in a criminal case, if the underlying crime charged were a misdemeanor or a civil infraction.

It would be a felony punishable by up to four years' imprisonment and/or a maximum fine of \$5,000 for a person knowingly or willfully to conceal, or harbor for the purpose of concealment, a person who was the subject of one or both of the following:

- An arrest warrant for a felony.
- A bench warrant in a criminal case, if the underlying crime charged were a felony.

The bill would take effect 90 days after it was enacted.

### **Senate Bill 1147**

Under the bill, harboring a person for whom a felony warrant had been issued would be a Class F felony against the public safety, with a statutory maximum sentence of four years' imprisonment.

MCL 750.199 (S.B. 1146)  
777.16j (S.B. 1147)

### **ARGUMENTS**

*(Please note: The arguments contained in this analysis originate from sources outside the Senate Fiscal Agency. The Senate Fiscal Agency neither supports nor opposes legislation.)*

#### **Supporting Argument**

Prosecutions for harboring a fugitive in Michigan evidently are quite limited because the provision of the Penal Code prohibiting and prescribing criminal penalties for concealing or harboring a fugitive applies only if that person has escaped or is in the process of escaping from legal custody. That prohibition otherwise cannot be used to prosecute someone who harbors a person subject to an arrest or bench warrant. Consequently, police do not have the leverage necessary to convince people to cooperate in the search for and apprehension of a wanted individual. The bill would close a loophole in the law that apparently allows someone to conceal a person wanted on a criminal or civil warrant, unless he or she is an escapee. By prescribing criminal penalties for concealing or harboring a person who was subject to an arrest or bench warrant, the bill would give law enforcement a necessary tool in the search for wanted individuals and would provide an appropriate punishment for those who knowingly or willfully interfered with efforts to locate and arrest wanted individuals.

Legislative Analyst: Patrick Affholter

### **FISCAL IMPACT**

The bills would have an indeterminate fiscal impact on State and local government. There are no data to indicate how many offenders would be convicted of harboring a person for whom an arrest or bench warrant had been issued or who escaped from lawful

custody. To the extent that increasing the maximum sentence for the misdemeanor of harboring an individual who escaped from custody would increase incarceration time, local corrections costs would increase. To the extent that the proposed misdemeanor and the proposed felony would result in or increase incarceration time for offenders convicted of harboring an individual, corrections costs would increase. For both the proposed felony and the proposed misdemeanor, local governments would incur the costs of incarceration in local facilities, which vary by county. An offender convicted of the Class F offense under the bills would receive a sentencing guidelines minimum sentence range of 0-3 months to 17-30 months. The State would incur the cost of felony probation at an annual average cost of \$2,000, as well as the cost of incarceration in a State facility at an average annual cost of \$30,000. Additional penal fine revenue would benefit public libraries.

Fiscal Analyst: Lindsay Hollander

#### **A0506\S1146a**

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.