



Senate Fiscal Agency
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Senate Bills 1146 and 1147 (as enrolled)
Sponsor: Senator Alan L. Cropsey (S.B. 1146)
Senator Gerald Van Woerkom (S.B. 1147)
Senate Committee: Judiciary
House Committee: Judiciary

Date Completed: 6-19-06

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 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 from a peace officer, 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

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 refer to concealing or harboring an escapee for the purpose of concealment from a peace officer, and 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 from a peace officer, 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, other than a civil infraction under the Michigan Vehicle Code.
- A bench warrant in a criminal case, if the underlying crime charged were a misdemeanor.

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 from a peace officer, 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.

"Peace officer" would mean that term as defined in Section 215 of the Penal Code, i.e., any of the following:

- A sheriff or deputy sheriff of a county of this State or another state.
- A city, village, or township police officer of this State or another state.
- A city, village, or township marshal.
- A constable.
- A Michigan State Police officer.
- A conservation officer.
- A police officer or public safety officer of a community college, college, or university who is authorized by the governing board of that institution to enforce State law and the rules and ordinances of that institution.
- A park and recreation officer commissioned under the Natural Resources and Environmental Protection Act (NREPA).
- A State forest officer commissioned under NREPA.
- A Federal law enforcement officer.
- An Attorney General investigator.

The term also includes security personnel employed by the State pursuant to Public Act 59 of 1935, and a motor carrier officer appointed under the Act. (Section 6c of that Act allows the Director of the Department of State Police to authorize limited arrest powers for security personnel employed by the State for the protection of State-owned or -leased property or facilities in Lansing and at the State secondary complex. Section 6d allows the Director to appoint officers with limited arrest powers for the purpose of enforcing the general laws of the State as they pertain to commercial vehicles.)

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 from police 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

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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.