



Senate Fiscal Agency
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House Bill 5450 (Substitute H-1 as passed by the House)
Sponsor: Representative William Van Regenmorter
House Committee: Judiciary
Senate Committee: Judiciary

Date Completed: 5-9-06

CONTENT

The bill would amend the Michigan Penal Code to delete and re-enact the felony of kidnapping.

Currently, any person who willfully, maliciously, and without lawful authority does any of the following is guilty of a felony punishable by imprisonment for life or any term of years:

- Forcibly or secretly confines or imprisons any other person within this State against his or her will.
- Forcibly carries or sends such a person out of this State.
- Forcibly seizes, confines, inveigles, or kidnaps any other person with intent to extort money or other valuable thing thereby or with intent either to cause the person to be confined or imprisoned secretly in this State against his or her will or to be held to service against his or her will.

The Code specifies that every offense listed above may be tried either in the county in which it was committed or in any county in or through which the victim was taken, confined, held, carried, or brought. Also, the victim's consent is not a defense unless it is satisfactorily apparent to the jury that consent was not obtained by fraud or extorted by duress or threats.

The bill would delete these provisions. Under the bill, a person would commit the crime of kidnapping if he or she knowingly restrained another person with the intent to do one or more of the following:

- Hold the person for ransom or reward.
- Use the person as a shield or hostage.
- Engage in criminal sexual penetration or criminal sexual contact with the person.
- Take the person outside of this State.
- Hold the person in involuntary servitude.

A violation would be a felony punishable by imprisonment for life or any term of years, a maximum fine of \$50,000, or both. The bill specifies that it would not prohibit the offender from being charged with, convicted of, or sentenced for any other violation of law arising from the same transaction.

Under the bill, "restrain" would mean to restrict a person's movements or confine the person so as to interfere with his or her liberty without his or her consent or without legal

authority. The restraint would not have to exist for any particular length of time and could be related or incidental to the commission of other criminal acts.

The bill would take effect 90 days after its enactment.

MCL 750.349

Legislative Analyst: Patrick Affholter

FISCAL IMPACT

The bill would have an indeterminate fiscal impact on State and local government. There are no data to indicate how many offenders would be convicted of kidnapping as proposed by the bill. In 2003, 63 offenders were convicted of kidnapping. Of these, 60 went to prison and three went to jail. Local governments would incur the costs of incarceration in local facilities, which vary by county. 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.