

## CRIMES OF UNLAWFUL IMPRISONMENT/KIDNAPPING

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

**House Bill 5450 (Substitute H-1)**

**Sponsor: Rep. William Van Regenmorter**

**House Bill 5451 as introduced**

**Sponsor: Rep. John Proos**

**House Bill 5449 (Substitute H-2)**

**Sponsor: Rep. Tim Moore**

**Committee: Judiciary**

**Complete to 2-21-06**

## A SUMMARY OF HOUSE BILLS 5449-5451 AS REPORTED FROM COMMITTEE

House Bill 5450 and 5451 would each amend the Michigan Penal Code. House Bill 5450 would describe the crime of *kidnapping*. House Bill 5451 would describe the crime of *unlawful imprisonment*. House Bill 5449 would amend the sentencing guidelines portion of the Code of Criminal Procedure to designate unlawful imprisonment as a Class C felony against a person with a maximum term of imprisonment of 15 years. The bills would take effect 90 days after enactment.

Current language regarding confining persons against their will would be eliminated.

***Kidnapping.*** Under House Bill 5450, 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 that person for ransom or reward.
- \*\* Use that person as a shield or hostage.
- \*\* Engage in criminal sexual penetration or criminal sexual contact with that person.
- \*\* Take that person outside of this state.
- \*\* Hold that person in involuntary servitude.

Kidnapping would be a felony punishable by imprisonment for life or any term of years and/or a fine of not more than \$50,000.

***Unlawful Imprisonment.*** Under House Bill 5451, a person would commit the crime of unlawful imprisonment if he or she knowingly restrained another person under any of the following circumstances:

- \*\* The person was restrained by means of a weapon or dangerous instrument.

**\*\* The restrained person was secretly confined.**

**\*\* The person was restrained to facilitate the commission of another felony or to facilitate flight after the commission of another felony.**

Unlawful imprisonment would be a felony punishable by imprisonment for not more than 15 years and/or a fine of not more than \$20,000. House Bill 5451 would take effect 90 days after enactment.

The term "restrain" would be defined to mean to [forcibly] restrict a person's movements or to forcibly confine the person so as to interfere with that person's liberty without that person's consent or without lawful authority. The restraint would not have to exist for any particular length of time and could be related to or incidental to the commission of other criminal acts. The term "secretly confined" would mean either (1) to keep the confinement of the restrained person a secret; or (2) to keep the location of the restrained person a secret. House Bill 5451 says "forcibly restrict;" House Bill 5450 says "restrict." Neither House Bill 5450 (kidnapping) nor House Bill 5451 (unlawful imprisonment) would prohibit a person from being charged with, convicted of, or sentenced for any other violation of law committed by that person while violating the new kidnapping or unlawful imprisonment crimes.

## **BACKGROUND INFORMATION:**

According to committee testimony, this package of bills aims to fill a gap in current law. Law enforcement officials from Berrien County recited a case in which a man held his parents at gunpoint, with an assault rifle, in their own home for a substantial length of time. The facts did not support a kidnapping charge under the statute as written, they said, and there was no similar lesser charge (except for felonious assault) that could be brought. The bills create two distinct crimes—kidnapping and unlawful imprisonment, with different elements, to address this and similar cases.

## **FISCAL IMPACT:**

The bills would have an indeterminate fiscal impact on the state and local units of government, depending on how they affected the numbers of felony convictions obtained and the sanctions imposed. The state would experience any costs or savings pertaining to prison incarceration or felony probation; current costs of prison incarceration average about \$30,000 per prisoner per year, and costs of felony parole and probation supervision average about \$2,000 per supervised offender per year. Costs of jail sentences would be borne by the affected counties, and vary across the state. Any increase in penal fine revenues would go to local libraries, who are the constitutionally-designated recipients of those revenues.

In 2003, the most recent year for which data are available, there were 70 felony dispositions for violations and attempted violations of the kidnapping statute, MCL 750.349. Of those sentences, 65 were to prison, 8 were to probation, and 7 were to jail.

In 2003, there were 32 commitments to the Department of Corrections for violations of MCL 750.349, and 2 for attempted violations. The average minimum sentence for a violation was 14.9 years; minimum sentences ranged from 2 years to life. The average minimum sentence for an attempted violation was 2 years.

**POSITIONS:**

Representatives from the Berrien County Prosecutor's Office and the Lincoln Township Police Department testified in support of the bill. (2-15-06)

The Michigan State Police indicated support for the bill. (2-15-06)

Legislative Analyst: Chris Couch  
Fiscal Analyst: Marilyn Peterson

---

■ This analysis was prepared by nonpartisan House staff for use by House members in their deliberations, and does not constitute an official statement of legislative intent.