

Legislative Analysis



POSSESSION OF CERTAIN DEVICES WITH INTENT TO STEAL FROM A MOTOR VEHICLE OR STEAL THE VEHICLE ITSELF

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

House Bill 5182 as introduced
Sponsor: Rep. Denise Mentzer

Analysis available at
<http://www.legislature.mi.gov>

House Bill 5183 as introduced
Sponsor: Rep. Alabas A. Farhat

Committee: Criminal Justice
Complete to 2-2-24

SUMMARY:

House Bill 5182 would amend the Michigan Penal Code to prohibit a person from knowingly possessing either of the following with the intent to steal a motor vehicle or to steal money or property from inside a motor vehicle:

- A substance, tool, or device adapted and designed for breaking into a motor vehicle.
- An electronic device or tool designed or adapted to unlock or turn on a motor vehicle (except for a previously issued activated electronic card, key, or other electronic device assigned to the lawful owner of the vehicle).

A violation would be a felony punishable by imprisonment for up to five years.

The Michigan Penal Code now generally prohibits a person from knowingly possessing a substance, tool, or device adapted and designed for breaking into a building, room, safe, *or other depository* to steal money or other property if the person intends to use the substance, tool, or device for that purpose. A violation is a felony punishable for up to ten years. (This is commonly called a prohibition against possessing burglar's tools.)

Under current law, the term *or other depository* includes motor vehicles. The bill makes those provisions subject to its new provisions that specifically address motor vehicles, which means that motor vehicles would no longer fall under the term *or other depository* in those current provisions. This would effectively reduce, from ten years to five, the maximum imprisonment for knowingly possessing a substance, tool, or device adapted and designed for breaking into a motor vehicle with the intent to use it to steal money or property from inside the vehicle.

MCL 750.116

House Bill 5183 would amend the sentencing guidelines in the Code of Criminal Procedure to provide that possession of a substance, tool, or device as described above, with intent to steal a motor vehicle or something inside, is a Class E crime against property with a maximum term of imprisonment of five years. The description of the current-law felony would be revised to exclude motor vehicles. The bill would not take effect unless HB 5182 were also enacted.

MCL 777.16f

Each bill would take effect 90 days after it is enacted.

BACKGROUND:

House Bill 5182 is similar to Senate Bill 870 of the 2020-21 legislative session as that bill was reported from the House Judiciary committee.

FISCAL IMPACT:

House Bill 5182 would have an indeterminate fiscal impact on the state and on local units of government. To the extent provisions of the bill result in an increase in felony convictions, the bill would result in increased costs related to state prisons and state probation supervision. In fiscal year 2023, the average cost of prison incarceration in a state facility was roughly \$48,700 per prisoner, a figure that includes various fixed administrative and operational costs. State costs for parole and felony probation supervision averaged about \$5,400 per supervised offender in the same year. Those costs are financed with state general fund/general purpose revenue. Any fiscal impact on the judiciary and local court systems would depend on how provisions of the bill affect court caseloads and related administrative costs. It is difficult to project the actual fiscal impact to courts due to variables such as law enforcement practices, prosecutorial practices, judicial discretion, case types, and complexity of cases. Any increase in penal fine revenue would increase funding for public and county law libraries, which are the constitutionally designated recipients of those revenues.

House Bill 5183 is a companion bill to House Bill 5182 and would amend the sentencing guidelines chapter of the Code of Criminal Procedure to include the proposed new felony possession of burglar’s tools with intent to steal a motor vehicle or money or property from a motor vehicle as a Class E felony punishable by a maximum of five years. The bill would not have a direct fiscal impact on the state or on local units of government.

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