

# Legislative Analysis



## REPEAL LAW PROHIBITING A FALSE AFFIDAVIT REGARDING DAMAGE TO A SHIP, BOAT, OR VESSEL

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

**House Bill 5761 as reported without amendment**  
**Sponsor: Rep. Joseph N. Bellino, Jr.**

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

**House Bill 5762 as reported without amendment**  
**Sponsor: Rep. Bronna Kahle**

**House Bill 5763 as reported without amendment**  
**Sponsor: Rep. Beth Griffin**

**Committee: Oversight** (Enacted as Public Acts 283, 284, and 285 of 2018)  
**Complete to 5-11-18**

### SUMMARY:

Taken together, House Bills 5761, 5762, and 5763 would eliminate provisions that prohibit a ship's master from making a false affidavit or protest regarding damage to a ship or a ship's owner from using such a false affidavit or protest to defraud an insurance company.

Section 106 of the Michigan Penal Code currently prohibits a master, officer, or mariner of a ship, boat, or vessel from making, causing to be made, or swearing to a false affidavit or *protest*. The section also prohibits the owner of, or other person with an interest in, a ship, boat, or vessel or its cargo from procuring a false affidavit or protest or using a false affidavit or protest to defraud an insurer of the ship, boat, or vessel or its cargo. Violation of the section is a felony.

In maritime law, a *protest* is a written statement by the master of a vessel to the effect that any damage suffered by a ship during voyage was caused by storms or other dangers associated with water travel without any negligence or misconduct on his or her own part.<sup>1</sup>

House Bill 5761 would repeal Section 106 of the Michigan Penal Code.

MCL 750.106 (repealed)

House Bill 5762 would amend the Revised Judicature Act to remove the repealed section from the definition of "crime" in the chapter regarding the seizure and forfeiture of property.

MCL 600.4701

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<sup>1</sup> <https://thelawdictionary.org/protest/>

**House Bill 5763** would amend the Code of Criminal Procedure to remove the repealed section from the sentencing guidelines.

MCL 777.16e

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

House Bills 5762 and 5763 are tie-barred to House Bill 5761, which means that each of those bills cannot take effect unless House Bill 5761 is also enacted.

#### **FISCAL IMPACT:**

House Bill 5761 most likely would not have any fiscal impact on the state or on local units of government. The number of people who actually have been convicted of false protest under provisions of MCL 750.106 is not known, but is assumed to be minimal to none. “Making or procuring false protest” has since come to be known as “insurance fraud,” for which penalties exist in other sections of current law. If anyone is still being prosecuted under MCL 750.106, and not charged under any other statutory provision with a similar or more severe penalty, the bill would result in a decrease in costs for the state and for local units of government. Reduced felony charges would result in reduced costs related to the state correctional system.

House Bill 5762 amends the Revised Judicature Act to eliminate references to the MCL section being repealed by HB 5761. Therefore, the bill would have no fiscal impact on the state or on local units of government.

House Bill 5763 amends sentencing guidelines to reflect the repeal of MCL 750.106 and does not have a direct fiscal impact on the state or on local units of government.

#### **POSITIONS:**

The Prosecuting Attorneys Association of Michigan (PAAM) indicated support for the bills. (5-3-18)

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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.