

REPEAL CRIMINAL ADULTERY LAWS

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Senate Bills 1083, 1084 (S-1), and 1085 as passed by the Senate
Sponsor: Sen. Jeff Irwin

House Committee: [Placed on second reading]

Senate Committee: Civil Rights, Judiciary, and Public Safety
Complete to 12-11-24

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

SUMMARY:

Senate Bill 1085 would repeal sections 29, 30, 31, and 32 of the Michigan Penal Code, which currently provide the following:

- Section 29 defines adultery as the sexual intercourse of two persons, either of whom is married to a third person.
- Section 30 provides that a person who commits adultery is guilty of a felony punishable by imprisonment for up to four years or a fine of up to \$5,000, or both. The section also says that when adultery is committed between a married woman and a man who is not married, the man is also guilty of adultery and subject to the same penalties.
- Section 31 provides that a prosecution for adultery can proceed only upon the complaint of the husband or wife and cannot be commenced more than one year after the offense was committed.
- Section 32 provides that two people who cohabit together after being divorced are subject to the same penalties as for adultery (they are guilty of a felony punishable by imprisonment for up to four years or a fine of up to \$5,000, or both).

MCL 750.29 et seq. (repealed)

Senate Bill 1084 would amend the sentencing guidelines provisions in the Code of Criminal Procedure to remove the felonies that would be repealed by House Bill 6156. Currently, both adultery and the cohabitation of divorced parties are Class H crimes against the public order with a statutory maximum term of imprisonment of four years. The bill would eliminate those provisions.

The bill can take effect only if Senate Bill 1085 is also enacted.

MCL 777.16a

Senate Bill 1083 would amend the Code of Criminal Procedure to remove adultery from a list of examples of phrasing (“forms”) to be used in setting forth the offense in a criminal indictment. For adultery, the form is “A.B., a married man, committed adultery with C.D.” or “A.B. committed adultery with C.D., a married woman,” where A.B. and C.D. would be filled in with the names of the parties to the offense. The bill would remove the indictment form for adultery from these provisions.

MCL 767.44

FISCAL IMPACT:

Senate Bill 1085 would have no fiscal impact on the state or on local units of government. The bill repeals sections of the Michigan Penal Code that dictate penalties for adultery and cohabitation of divorced parties. Violations have not been enforced in over 50 years, so repealing the sections will have no fiscal impact.

Senate Bill 1084 is a companion bill to Senate Bill 1085 and would amend the sentencing guidelines chapter of the Code of Criminal Procedure to eliminate the felonies of adultery and cohabitation of divorced parties. Both are Class H felonies against public ordinance and are punishable by a statutory maximum of four years. The bill would not have a direct fiscal impact on the state or on local units of government.

Senate Bill 1083 would have no fiscal impact on the state or on local units of government. The bill eliminates adultery from the Code of Criminal Procedure.

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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.