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BILL ANALYSIS

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Senate Bill 1046 (Substitute S-1 as reported)  
Sponsor: Senator Alan L. Cropsey  
Committee: Judiciary

### **CONTENT**

The bill would create a new act to specify that it would be a rebuttable presumption that an individual who used force under the Self-Defense Act (proposed by House Bill 5143) had an honest and reasonable fear that imminent death of, sexual assault of, or great bodily harm to himself or herself or another individual would occur, if the person against whom force was used were in the process of breaking and entering a dwelling or committing home invasion, had broken and entered a dwelling or committed home invasion and were still present in the dwelling, or were unlawfully attempting to remove another individual from a dwelling or occupied vehicle against his or her will, and the individual using force knew or had reason to believe the person was engaging in that conduct. The rebuttable presumption would not apply, however, if any of the following circumstances existed:

- The person against whom force was used, including an owner, lessee, or titleholder, had the legal right to be in the dwelling or vehicle and there was not an injunction for protection from domestic violence or a written pretrial supervision order, a probation order, or a parole order of no contact against that person.
- The individual removed or being removed from the dwelling or occupied vehicle was a child or grandchild of, or was otherwise in the lawful custody of or under the lawful guardianship of, the person against whom force was used.
- The individual who used force was engaged in an unlawful activity or was using the dwelling or occupied vehicle to further an unlawful activity.
- The person against whom force was used was a peace officer who had entered or was attempting to enter a dwelling or vehicle in the performance of his or her official duties and the peace officer identified himself or herself, or the individual using force knew or reasonably should have known that the other person was a peace officer.

The bill would take effect on October 1, 2006, and is tie-barred to Senate Bill 1185 and House Bills 5142, 5143, 5153, and 5548.

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 individuals have been convicted of crimes for using defensive force. To the extent that the bill would provide criminal immunity not already defined in law for individuals who use defensive force, these individuals would avoid conviction. State and local governments would incur reduced incarceration costs.

Date Completed: 5-18-06

Fiscal Analyst: Lindsay Hollander

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Analysis available @ <http://www.michiganlegislature.org>

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