



Senate Fiscal Agency
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BILL ANALYSIS



Telephone: (517) 373-5383
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Senate Bill 834 (as introduced 2-27-14)
Senate Bill 881 (as introduced 3-20-14)
House Bill 4155 (Substitute H-3 as passed by the House)
House Bill 5325 (as passed by the House)
House Bill 5327 (Substitute H-1 as passed by the House)
House Bill 5328 (as passed by the House)
Sponsor: Senator Phil Pavlov (S.B. 834)
Senator Goeff Hansen (S.B. 881)
Representative Aric Nesbitt (H.B. 4155)
Representative Hugh Crawford (H.B. 5325)
Representative Bruce R. Rendon (H.B. 5327)
Representative Kevin Cotter (H.B. 5328)

Senate Committee: Judiciary
House Committee: Judiciary (H.B. 4155, 5325, 5327, & 5328)

Date Completed: 3-25-14

CONTENT

House Bill 5327 (H-1) would amend the handgun licensure law to specify that firearms records would be confidential and not subject to disclosure under the Freedom of Information Act (FOIA), and could be accessible and disclosed only for certain law enforcement purposes. The bill also would prescribe a State civil infraction penalty for an intentional violation of the disclosure restrictions.

House Bill 5325 would amend the handgun licensure law to define "firearms records".

Senate Bills 834 and 881 and House Bill 5328 would amend the handgun licensure law to delete provisions exempting particular records from disclosure under FOIA.

House Bill 4155 (H-3) would amend the handgun licensure law to allow access to information in a Michigan Department of State Police (MSP) database of people who apply for a concealed pistol license to be given only under certain circumstances. The bill also would require an annual MSP report to include the number of times access to the MSP database was gained.

Each of the Senate bills is tie-barred to the other, to each of the House Bills, and to Senate Bill 49 and House Bill 5329.

Each of the House bills is tie-barred to the other House bills, as well as to Senate Bill 49 and House Bills 5324, 5326, and 5329.

(Senate Bill 49 and House Bills 5324, 5326, and 5329 also address firearms records confidentiality.)

House Bill 5327 (H-1)

The bill specifies that firearms records would be confidential, would not be subject to disclosure under FOIA, and could not be disclosed to any person except as otherwise provided in the bill.

Access to firearms records could be gained, and the records could be disclosed, only by a peace officer or authorized system user as follows:

- A peace officer had a reasonable suspicion that the individual whose firearms records were the subject of disclosure posed a threat to himself or herself or other individuals, including a peace officer.
- A peace officer had a reasonable suspicion that the individual whose firearms records were the subject of disclosure had committed an offense with the pistol that violated a law of this State, another state, or the United States.
- A peace officer had a reasonable suspicion that the pistol that was the subject of the firearms records search was used during the commission of an offense that violated a law of this State, another state, or the United States.
- To ensure the safety of a peace officer before a lawful search and seizure.
- For purposes of the handgun licensure law.
- A peace officer or an authorized user had reason to believe that access to firearms records was necessary within the commission of his or her lawful duties, and entered and recorded the specific reason in the system according to the procedures in Section 5e (the section that House Bill 4155 (H-3) would amend).

A person who intentionally violated the access and disclosure restrictions described above would be responsible for a State civil infraction and could be ordered to pay a civil fine of up to \$500.

House Bill 5325

Under the bill, as used in the handgun licensure law, "firearms records" would mean any form, information, or record required for submission to a government agency under Sections 2, 2a, 2b, and 5b of the law, or any form, permit, or license issued by a government agency under the Act.

(Section 2 prohibits a person from buying, carrying, possessing, or transporting a pistol without first having obtained a license, and includes requirements regarding the sale of pistol. Section 2a exempts certain people from the requirements of Section 2, and includes requirements regarding the sale of a pistol. Section 2b requires the MSP to notify the person who is the subject of an order or disposition described in that section (which Senate Bill 834 would amend), upon entry of that order or disposition into the Law Enforcement Information Network. Section 5b contains requirements for securing a license to carry a concealed pistol.)

Senate Bill 834

Except as otherwise provided under the handgun licensure law, a person may not purchase, carry, possess, or transport a pistol in Michigan without first having obtained a license for the pistol. A commissioner or chief of police or county sheriff must issue licenses to qualified applicants.

An applicant is qualified if he or she meets certain requirements, including that he or she is not subject to an order or disposition entered into the Law Enforcement Information Network for any of the following:

- Involuntary hospitalization and/or alternative treatment for mental health.

- A finding of legal incapacitation under the Estates and Protected Individuals Code.
- A domestic violence or stalking personal protection order.
- Pretrial release of a defendant.
- A finding of not guilty by reason of insanity.

The law provides that information contained in an order or disposition described above is exempt from public disclosure under FOIA. The bill would delete that provision.

Senate Bill 881

The handgun licensure law prohibits a concealed pistol license (CPL) holder from carrying a concealed pistol on certain premises. These so-called "no carry zones" include a bar or tavern licensed under the Michigan Liquor Control Code where the primary source of income is the sale of alcohol by the glass and consumed on the premises. The prohibition does not apply to an owner or employee of the business. The owner or operator of such an establishment may, but is not required to, post a sign developed by the Liquor Control Commission stating: "This establishment prohibits patrons from carrying concealed weapons."

The law provides that a record made available by a licensed establishment necessary to enforce the no-carry requirement is exempt from disclosure under FOIA. The bill would delete that provision.

House Bill 5328

Under the handgun licensure law, an application to obtain a CPL must include the applicant's legal name and date of birth and the address of his or her primary residence. If the applicant lives in a city, village, or township that has a police department, the application also must include the name of that police department.

A CPL application also must include a statement by the applicant authorizing the concealed weapon licensing board to have access to any record, including any medical record pertaining to his or her qualifications for a license.

In addition, a CPL application must include a statement by the applicant regarding whether he or she has a history of mental illness that would disqualify him or her from receiving a license, and authorizing the concealed weapon licensing board to have access to the applicant's mental health records.

A CPL application also must include the names, residential addresses, and telephone numbers of two references.

Each of those requirements provides that the information received, or medical records and personal identifying information, is confidential, is not subject to disclosure under FOIA, and may not be disclosed to any person except for purposes of the handgun licensure law or for law enforcement purposes. The bill would delete those provisions.

House Bill 4155 (H-3)

MSP Database

The handgun licensure law requires the MSP to create and maintain a computerized database of people who apply for a license to carry a concealed pistol.

Information compiled in the MSP database is confidential, is not subject to disclosure under FOIA, and may not be disclosed to any person except for purposes of the law or for law enforcement purposes. Under the bill, instead, access to information in the database could

be gained, and the information could be disclosed, only according to an access protocol that required the requestor of the firearms records to do the following:

- Identify himself or herself in a log that maintained a record of the requestor's identity, and the time and date that the request was made.
- Attest that the firearms records were being sought for a lawful purpose.

MSP Report to the Legislature

The law requires the MSP to file an annual report with the Secretary of the Senate and the Clerk of the House of Representatives regarding concealed pistol licensing. The bill would require the report to include the number of times access to the database was gained, categorized by the purpose for which access was gained.

MCL 28.422b (S.B. 834)

28.425o (S.B. 881)

28.425e (H.B. 4155)

28.421 (H.B. 5325)

Proposed MCL 28.421b (H.B. 5327)

MCL 28.425b (H.B. 5328)

Legislative Analyst: Patrick Affholter

FISCAL IMPACT

The bills would have no fiscal impact on State or local government, except to the extent that State civil infraction fine revenue benefited public libraries.

Fiscal Analyst: Bruce Baker

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This analysis was prepared by nonpartisan Senate staff for use by the Senate in its deliberations and does not constitute an official statement of legislative intent.