

ELIMINATE COUNTY CONCEALED WEAPONS LICENSING BOARDS & REVISE CPL PROCESS

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

Senate Bill 34 (Reported from committee as Substitute H-1)
Senate Bill 35 (Reported without amendment)
Sponsor: Sen. Mike Green

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

House Committee: Judiciary
Senate Committee: Judiciary

(Enacted as Public Acts 3 and 4 of 2015)

Complete to (2-25-15)

BRIEF SUMMARY: Senate Bill 34 will amend the Handgun Licensing Law to:

- Abolish county concealed weapon licensing boards beginning December 1, 2015.
- Transfer the bulk of the duties of the county boards to county clerks and the MSP, with some duties going to the courts and sheriffs.
- Require a CPL to be issued to an eligible applicant.
- Require the MSP to verify an applicant's eligibility for a CPL.
- Revise the CPL process, including requiring an applicant to have a valid state-issued driver license or personal ID card.
- By December 1, 2018, require the MSP to create an online application process for CPL renewals.
- Provide civil immunity to clerks and law enforcement entities if a CPL holder later commits a crime or negligent act.
- Add criminal penalties for certain violations of the act and require, instead of allow, certain civil infractions to be imposed for violations.
- Allow an applicant for a CPL renewal to certify that he or she has completed educational and firing range requirements without requiring other verification.
- Revise initial and renewal CPL application fees.
- Revise the process to obtain an emergency CPL (formerly "temporary" license).
- Require each county to establish a concealed pistol licensing fund and to deposit funds collected under the act in the fund.
- Allow county clerks to take fingerprints of applicants.
- Repeal Sections 5m and 6a.

Senate Bill 35 will make technical revisions to the sentencing guidelines within the Code of Criminal Procedure to comport with changes made by SB 34 (MCL 777.11b). The bill is tie-barred to Senate Bill 34, meaning that Senate Bill 35 cannot take effect unless Senate Bill 34 is also enacted.

FISCAL IMPACT: The bill will have fiscal implications for state and local units of governments, as detailed later in the analysis.

THE APPARENT PROBLEM:

Michigan is the last state in the nation to use local gun boards to issue, deny, revoke, or suspend a license to carry a concealed pistol – a system that dates back to the late 1920s. County gun boards comprise three members – the county sheriff and the county prosecutor (or a designee) and a representative of the Department of State Police. Prior to 2001, an applicant had to demonstrate to the board a need for carrying a concealed firearm. Many claimed that the broad discretion by gun board members to grant or deny an application resulted in vast differences around the state in how licenses were issued and led to women and racial minorities having a harder time being approved.

In an attempt to make the CPL process uniform across the state, legislation enacted in 2001 was reportedly intended to change Michigan from a "may" issue to a "shall" issue state. Most of the discretion allocated to gun boards was removed and a concealed pistol license (CPL) was to be issued if the applicant met the eligibility criteria. Generally speaking, as long as an applicant is at least 21 years of age, has no felony or certain misdemeanor convictions, completes gun safety training, and has no history of mental illness, the applicant should be approved for a CPL.

However, the 2001 revisions not only kept the gun board system, some say that a level of discretionary authority was retained by gun boards such that the reform has not resulted in uniformity, either in the ease or the length of time for processing applications. For example, where some counties rely almost exclusively on the paperwork and applicants receive licenses within weeks of applying, other counties require many applicants to appear for interviews.

Legislation has been offered to eliminate the old county gun board system and replace it with one that is more efficient, fair, and uniform statewide, yet still provide for the public safety.

THE CONTENT OF THE BILLS:

Senate Bill 34

The bill makes significant revisions to the Handgun Licensing Act, including eliminating the current process by which county concealed weapons licensing boards issue concealed pistol licenses (CPLs) to eligible applicants as of November 30, 2015, and replacing it with a revised process as of December 1, 2015. The bill will revise the CPL process to transfer most of the duties of the local boards to their respective county clerks and all investigatory duties to verify an applicant's eligibility to the MSP. A county clerk would be required to issue a CPL to an applicant who is not statutorily disqualified. Substantive changes include, but are not limited to, the following:

Definitions

For the purpose of the act, "*felony*" would not include a violation of a Michigan penal law that is expressly designated as a misdemeanor.

"*Retired police officer*" is currently defined to mean an individual who was certified under the Michigan Commission on Law Enforcement Standards as a police officer or law enforcement officer, and who retired in good standing from employment as an officer.

The bill would add that a retired police officer or law enforcement officer retired in good standing if he or she receives a pension or other retirement benefit for service as a police officer or law enforcement officer or actively maintained an MCOLES or equivalent state certification for 10 or more consecutive years.

County concealed weapon licensing boards eliminated

Beginning December 1, 2015, county concealed weapon licensing boards will be eliminated. Certain references to the boards contained throughout the act will be deleted or revised to refer to other entities, such as county clerks or the Department of State Police (MSP).

Each board must transfer all license applications and official documents in its possession to its county clerk no later than November 30, 2015. A license to carry a concealed pistol issued by the board prior to December 1, 2015, is valid and remains in effect until the license expires or as otherwise provided by law.

All pending applications would be considered to have a December 1, 2015, application date and would be processed by the county clerk. Applicants whose initial or renewal applications had been pending on December 1, 2015, could request a receipt that would serve as a concealed pistol license until a license or notice of disqualification were issued. No additional fee for receiving or processing an application previously submitted to the licensing board could be charged.

Responsibilities of county clerks

Under the bill, a county clerk would not make determinations regarding an applicant's eligibility to receive a CPL. The clerk's role would be administrative in nature. A county clerk would be responsible for:

- ❖ Storing and maintaining all records related to issuing a license or notice of statutory disqualification in that county.
- ❖ Issuing licenses to carry a concealed pistol.
- ❖ Issuing notices of statutory disqualification, notices of suspensions, and notices of revocations.

The bill would also allow county clerks to take fingerprints of applicants for a license or license renewal.

A county clerk must mail an initial CPL or renewal license by first-class mail in a sealed envelope. A replacement license could be issued in person for a replacement fee (\$10) or delivered by first-class mail upon request by the licensee.

Department of State Police

Beginning December 1, 2015, the MSP would verify certain eligibility requirements through LEIN and the National Instant Criminal Background Check System and report any statutory disqualifications of an applicant to the county clerk (e.g., to see if the applicant is

the subject of a court order for involuntary treatment of a mental illness); currently, county sheriffs perform this function.

The database maintained by the MSP regarding individuals who apply for a CPL would have to include, in addition to current requirements, the individual's state-issued driver license and personal ID card number, whether the individual was issued a notice of statutory disqualification and a statement of the reasons for that disqualification, and the status of the individual's application or license.

Annual report by the MSP

The bill would require the annual report required of the MSP to be filed with the Secretary of the Senate and the Clerk of the House of Representatives by January 1 of each year and would revise criteria required to be included in the report as follows:

- ❖ Report the number of statutorily disqualified applicants and categories for statutory disqualifications rather than the number of CPLs denied and categories for denial.
- ❖ Report the number of CPLs suspended and the categories, in addition to those revoked.
- ❖ Eliminate provisions regarding the number of charges of state civil infractions of the act or charges of criminal violations, and instead require the total number of licensees found responsible for a civil violation of the act, the total number of civil violations categorized by offense, the total number of individuals licensed to carry a concealed pistol convicted of a crime, and the total number of those criminal convictions categorized by offense.
- ❖ Report the total amount of revenue the MSP received under the act.
- ❖ Report the actual costs incurred per initial and renewal license by the MSP under the act, itemized by each statutory section of the act.
- ❖ Include a list of expenditures made by the MSP from money received under the act, regardless of purpose.
- ❖ Report the actual costs incurred per permit for each county clerk.

Applying for a CPL

Current provisions would be amended to reflect the elimination of the county boards and transference of duties to the county clerks or MSP. Beginning December 1, 2015, applications for a CPL would be made to the county clerk in the county in which the applicant resides.

Only one CPL application per calendar year could be filed, and a completed application would expire one year from the date of application. To be complete, an applicant must submit all the required information and fees and have fingerprints taken. The application would be considered withdrawn if the applicant did not have fingerprints taken within 45 days of filing the application.

The county clerk must issue the applicant a receipt for the application at the time of submission. The receipt must contain the applicant's name, state-issued driver license or personal ID card number, date and time the receipt was issued, amount paid, name of issuing county, impression of the county seal, and the statement, "*This receipt was issued for the purpose of applying for a concealed pistol license and for obtaining fingerprints*

related to that application. This receipt does not authorize an individual to carry a concealed pistol in this state."

The bill would require the Secretary of State to make a digitized photograph taken of the applicant for a driver license or state ID available to the MSP for use under the act. The MSP would have to provide the applicant's photograph from the SOS to the county clerk for use on the CPL. Beginning December 1, 2015, if an applicant does not have a digitized photograph on file with the Secretary of State, a passport-quality photograph of the applicant must be provided at the time of application.

The bill would also revise the information required by applicants to be included in certain statements on the CPL application form. For example, beginning December 1, 2015, the applicant must authorize the MSP to access any record needed to perform the verification of eligibility.

A county clerk could not require a CPL applicant to submit any other additional forms, documents, letters, or other evidence of eligibility except as listed in Section 5b(1) or otherwise provided in the act.

Beginning December 1, 2015, if the applicant holds a valid CPL issued by another state at the time Michigan residency is established, the county clerk must waive the six-month waiting period and the applicant could apply at the time residency in Michigan is established.

Fees

Beginning December 1, 2015, initial application and license fees would be reduced from \$105 to \$100, and no other charge, fee, cost, or assessment (unless specifically authorized in the act) could be added.

Currently, \$41 of the application/license fee goes to a county's general fund with \$26 of that going to the county clerk and \$15 to the county sheriff, with the balance of the fee being forwarded to the state treasurer to be credited to the MSP.

Instead, until November 30, 2015, \$15 would be credited to the county sheriff and \$26 to the county Concealed Pistol Licensing Fund. As of December 1, 2015, the bill will direct that \$26 of each fee be deposited into the county's Concealed Pistol Licensing Fund with the balance going to the state treasurer to be credited to the MSP.

Currently, an applicant for a renewal license must pay an application and licensing fee of \$105. Beginning December 1, 2015, an applicant for a renewal license must pay an application and licensing fee of \$115, payable to the county. No other charge, fee, cost, or assessment, including any local charge, fee, cost, or assessment, would be required of the applicant except as specifically authorized in the act. The county treasurer would have to deposit \$36 of each renewal fee to the county concealed pistol licensing fund and forward the balance to the state treasurer for deposit in the general fund to the credit of the MSP. A county clerk could charge up to \$1.00 for making a copy of the application for an applicant or licensee.

Revisions regarding issuance of a CPL

A county clerk, instead of the county board, would be required to issue and send a license to an applicant eligible to carry a concealed weapon upon determination that all of the listed circumstances exist.

Among many circumstances that would disqualify an applicant, listed circumstances require an applicant to not have been convicted of certain misdemeanor violations in the eight years or the three years preceding applying for a CPL. The bill would add that the applicant could not have a pending charge for any of those violations in Michigan or elsewhere at the time the application is made. In addition, an applicant must not have a diagnosed mental illness at the time of application for a CPL. Under the bill, this listed circumstance would disqualify an applicant if the applicant has filed a statement with the application (a required element of the application process) that the applicant does not have a diagnosis of mental illness that includes an assessment that the individual presents a danger to himself or herself or to another at the time application is made, regardless of whether he or she is receiving treatment for that illness.

When a CPL is issued, the county clerk must indicate on the license if the individual is exempt from the prohibitions against carrying a concealed pistol in no carry zones if the applicant provides acceptable proof of qualifying for that exemption. The bill adds a definition for what would constitute acceptable proof for the categories of individuals who qualify for the exemption (for instance, a retired police officer).

The bill also makes numerous revisions that are editorial or technical in nature.

Further, county clerks, MSP, county sheriffs, local police agencies, and other entities that maintain fingerprinting capability must provide reasonable access to fingerprinting services during normal business hours as necessary to comply with the act's requirements if such services are provided. An applicant who has had classifiable fingerprints taken under Section 5a(4), which pertains to an emergency CPL, would not need additional fingerprints taken under this provision. If an individual's fingerprints are not classifiable, the MSP would have to take the individual's fingerprints again—at no charge— or provide for the comparisons with state and national fingerprint databases to be conducted through alternative means.

At the time fingerprints are taken, the entity must issue a receipt to the applicant that contains all of the following:

- ❖ Name of the applicant.
- ❖ Date and time the receipt is issued.
- ❖ Amount paid.
- ❖ Name of the entity providing the fingerprint services.
- ❖ The applicant's state-issued driver license or personal ID card number.
- ❖ A statement that says, among other things, the receipt was issued for the purpose of applying for a concealed pistol license, and, if a license or statutory disqualification is not issued within 45 days, the receipt will serve as a CPL when carried with an official state-issued ID or driver license. The receipt will be a valid CPL until a license or notice of disqualification is issued by the county clerk. The

receipt would not exempt the individual from complying with all applicable laws for the purchase of firearms.

Within five business days of completing the verification process, MSP must send the county clerk a list of an applicant's statutory disqualifications. A county clerk could not issue a CPL until after receiving the report from by the MSP.

Temporary (emergency) licenses

The bill would revise the process regarding obtaining an emergency CPL (formerly, a "temporary license"). A county clerk would be required to issue an emergency CPL to an applicant who had obtained a PPO against an individual for domestic violence or stalking or to an applicant if a county sheriff determined by clear and convincing evidence (rather than by probable cause) to believe the safety of the applicant or a member of the applicant's family or household is endangered by the inability to immediately obtain a CPL.

"Clear and convincing evidence" would include, but not be limited to, an application for a PPO, police reports and other law enforcement records, or written, audio, or visual evidence of threats to the applicant or member of the family or household.

The bill would prohibit issuance of an emergency license by a county clerk to an applicant who obtained a PPO but does not meet certain requirements based on a LEIN check conducted by MSP. A county sheriff could only issue a determination under this provision to an applicant meeting certain eligibility requirements based on a LEIN check and only after the sheriff had taken the individual's fingerprints.

Within 10 business days of applying for an emergency license, the applicant must complete a pistol training course and apply for a CPL. A county sheriff could charge up to \$15 for running the LEIN check and taking the fingerprints and a county clerk could charge up to \$10 for printing the emergency license. An emergency license would be valid for 45 days or until a CPL or notice of statutory disqualification were issued. The emergency license would indicate if the individual were allowed to carry the concealed pistol in a no carry zone. No more than one emergency CPL could be issued in any five-year period.

If a notice of statutory disqualification is issued to the applicant, the applicant must immediately surrender the emergency license to the county clerk by mail or in person if the emergency license has not expired. Failure to do so would be a misdemeanor punishable by imprisonment for not more than 93 days and/or a fine of not more than \$500.

Beginning December 1, 2015, the county clerk would have to waive the six-month residency requirement if the applicant is a petitioner for a PPO order regarding domestic violence or stalking or if the county sheriff determined by clear and convincing evidence that the applicant's (or a family or household member's) safety was endangered if unable to immediately obtain a CPL.

Renewal licenses

A renewal license would be valid in the same manner as for the initial license.

Beginning December 1, 2015, a county clerk must notify a licensee that the license was about to expire and may be renewed as provided in the act. The notification must be sent to the last known address of the licensee as shown on the records of the clerk. It must be sent in a sealed envelope by first-class mail not less than three months or more than six months before the current license's expiration date. An applicant is eligible for a renewal if the license is not expired, or expired within a one-year period before the date of application.

Beginning December 1, 2018, the MSP must provide a system for an applicant to submit an application for renewal online or by first-class mail. The renewal application fee of \$115 would be made payable to the state. The state treasurer would forward \$36 to the appropriate county treasurer for deposit to that county's concealed pistol licensing fund with the balance deposited in the state's General Fund and credited to the MSP. The MSP would notify the appropriate clerk of applications it received.

The MSP would have to complete the verification process and the county clerk would have to issue a renewal license or a notice of statutory disqualification within 30 days (shortened from 60 days) after the application was received. The receipt would have to include the applicant's state-issued driver license or personal ID card number and a statement that it could serve as a CPL when carried with the expired license and would be valid until a license or notice of statutory disqualification is issued.

Until November 30, 2018, a member of the U.S. armed forces, reserves, or the Michigan National Guard who is on orders to a duty station outside the state could submit an application for renewal by first-class mail, with the required fee, a notarized application, and the licensee's orders to report to an out-state duty station in a form required by the county clerk. The clerk would have to mail a receipt by first-class mail.

Beginning on the date the MSP provides the online renewal application process, the MSP must provide an applicant a digital receipt or a receipt by first-class mail, if requested, and a receipt by first-class mail if the application had been submitted to the MSP by mail.

If an individual applies for a renewal license before the expiration of the license, the expiration date of the current license would be extended until the renewal license or notice of statutory disqualification is issued; currently it is extended by only 180 days.

The clerk must notify the MSP after receiving a renewal application and the MSP must immediately enter into LEIN that an application has been submitted and the renewal is pending.

Renewal applications require the applicant to certify that the applicant has completed at least three hours' review of the required training and at least one hour of firing range time in the six months immediately preceding the renewal application. Beginning December 1, 2015, the bill would specify that the educational and firing range requirements are met if the applicant certifies on the renewal application form that the requirements have been met. An applicant could not otherwise be required to verify the statements made under this

provision and shall not be required to obtain a certificate or undergo training other than as required by this provision.

County Concealed Pistol Licensing Fund

Each county would have to establish a Concealed Pistol Licensing Fund for the deposit of fees collected by its county clerk. The county treasurer would direct investment of the fund and credit to the fund interest and earnings. Expenditures would have to comply with the Uniform Budgeting and Accounting Act and funds used only for the cost of administering the act. Allowable expenditures would include, but not be limited to, staffing requirements directly attributable to performing functions required under the act; technology upgrades, including those required to take fingerprints by electronic means; office supplies; and document storage and retrieval systems and system upgrades.

All revenue collected by county clerks under the act would have to be deposited into the county's concealed pistol licensing fund.

Restoration of right to carry concealed weapon

Currently, a person prohibited from possessing, using, transporting, selling, carrying, shipping, or distributing a firearm or ammunition because of the commission of a felony may apply to the county concealed weapons licensing board for restoration of those rights; the board may charge a fee of not more than \$10 for the actual and necessary expenses of each application. The bill would instead require a person to apply to the circuit court in the county in which the person resides. The circuit court would be required to charge a fee as provided in Section 2529 of the Revised Judicature Act unless the court waives the fee; Section 2529 currently sets filing fees at \$150.

CPL holder responsibilities

- ❖ A licensee may notify a county clerk that he or she has moved to a different county within the state in order to receive renewal notifications.
- ❖ A licensee may voluntarily surrender the license without explanation; MSP shall enter that information into LEIN along with the date the license was surrendered. The county clerk must retain a surrendered license as an official record for one year.
- ❖ A licensee must carry his or her state-issued driver license or personal ID card along with the CPL and the concealed pistol.

Civil immunity

A county clerk, county sheriff, county prosecuting attorney, police department, or MSP would not be liable for civil damages as a result of issuing a CPL to an individual who later commits a crime or a negligent act.

CPL/requirements for the physical license

Beginning October 1, 2015, the license would have to be made of plastic laminated paper or hard plastic. No additional fee could be charged for the license unless allowed under the act. A fee of not more than \$10 could be charged for an optional hard plastic license only if the county clerk also provides the option of obtaining a plastic laminated paper license at no charge.

In addition to current requirements, the license would have to include:

- ❖ The licensee's state-issued driver license or personal ID card number.
- ❖ The premises on which carrying a CPL is prohibited under Section 5o.
- ❖ The peace officer disclosure required under Section 5f (informing the officer the licensee is carrying a CPL or personal Taser).
- ❖ An indication whether the license is a duplicate or an emergency license (if an emergency license, it must include that it does not exempt the individual from complying with all applicable laws for the purchase of firearms).

Neither the MSP nor a county clerk could require a licensee's signature to appear on a CPL.

Appeals

An applicant may appeal to the circuit court a statutory disqualification or failure to be issued a receipt complying with the receipt requirements issued when fingerprints are taken. If a court determined the disqualification, failure to provide a proper receipt, or failure to issue a license was arbitrary and capricious (in addition to being erroneous, as is currently the case), the court would have to order the clerk to issue a license or receipt.

For appeals submitted on or after December 1, 2015, if the action was clearly erroneous, the court could also refund any filing fees, according to the degree of responsibility of that entity. If arbitrary and capricious, the court must order the county clerk, entity taking the fingerprints, or the state to pay the applicant's actual costs and actual attorney fees in appealing the action, based on the degree of responsibility of the clerk, fingerprint entity, or state. Currently, an appeal of a license denial by a board found to be arbitrary and capricious requires the court to order the state to pay 1/3 and the county to pay 2/3 of the actual costs and attorney fees of the applicant in appealing the denial; this applies to appeals submitted before December 1, 2015.

Violations of act

Currently, when carrying a concealed pistol or personal Taser, failure to carry the CPL, failure to show the CPL to a peace officer, or failure to disclose to an officer the fact that the individual is carrying a concealed pistol or personal Taser, is a state civil infraction that can result in a fine as well as suspension or revocation of the CPL. The bill would apply the fine also to failure to carry the state-issued driver license or personal ID card along with the CPL and require (instead of being discretionary) a fine of \$100 to be imposed as specified if the person was found to be responsible for the civil infraction.

The peace officer must notify the MSP of that civil infraction. The MSP must then notify the county clerk who issued the CPL. The clerk must suspend or revoke the license and notify the licensee of the suspension or revocation by first-class mail. The MSP must immediately enter the suspension or revocation into LEIN.

The act prohibits a licensee from carrying a concealed pistol or personal Taser while under the influence of alcohol and/or a controlled substance or while having a prohibited bodily alcohol content of .10 grams or more. Instead of requiring a court to permanently revoke the person's license, the bill would instead require the court to order the county clerk to

revoke the license (but not permanently). The clerk must notify MSP of the revocation for entry into LEIN.

If the person had a bodily alcohol content of .08 or more but less than .10 grams, the license must be ordered suspended for three years instead of allowing the court to revoke it for three years. A bodily alcohol level of more than .02 but less than .08 grams would result in a one-year suspension instead of a one-year revocation and the person would be fined \$100. (These penalties would be in addition to applicable criminal penalties.)

Refusal to take a chemical test would result in a six-month license suspension and responsibility for a state civil infraction and a fine of \$100. A peace officer must notify the MSP to enter the suspension into LEIN.

"Under the influence of alcoholic liquor or a controlled substance" would mean that the individual's ability to properly handle a pistol or to exercise clear judgment regarding the use of that pistol was substantially and materially affected by the consumption of alcoholic liquor or a controlled substance.

Failure to surrender a suspended or revoked license would be a misdemeanor punishable by not more than 93 days and/or a fine of not more than \$500.

Suspensions or revocations

A court could order a county clerk who issued a CPL to suspend, revoke, or reinstate that license as provided in the act. A suspended or revoked license must be retained by the clerk as an official record for one year after the license's expiration, unless it is reinstated or a new license issued. The county clerk must notify the MSP of suspended or revoked licenses for entry into LEIN.

Notice of a suspension or revocation must include the statutory reason (provided to the clerk by the court), the source of the record supporting that determination, the length of the suspension or revocation, and the process for reinstating the license when the suspension ends or for reapplying for a license that was revoked, correcting errors in the record, or appealing the suspension or revocation. If the individual is acquitted of the charge leading to the suspension, or the charge dismissed, the court must notify the county clerk who shall automatically reinstate the license if the license is not expired and the individual is otherwise qualified to receive a CPL license, as verified by MSP. A clerk could not charge a reinstatement fee for a suspension.

The act specifies that a license cannot be revoked except upon written complaint and an opportunity for a hearing. The bill would apply to this suspensions, as well.

A suspension would have to be stated in terms of years, months, or days, or until the final disposition of the charge and must state the date the suspension will end, if applicable. A licensee would have to promptly surrender the license to the county clerk after being notified that the license had been revoked or suspended.

Upon expiration of the suspension period, the applicant may apply for a renewal license. The clerk would have to issue a receipt to the applicant that stated that the receipt was issued for the purpose of applying for a renewal of a concealed pistol license following a period of suspension or revocation, but does not authorize the person to carry a concealed pistol in the state.

If the suspension or revocation was because the applicant was a subject of a PPO restricting the ability to carry or purchase a firearm, and the license had been surrendered by the licensee, upon expiration of the order and notification to the county clerk, the county clerk would have to automatically reinstate the license if it is not expired and the MSP has completed the verification process. A fee could not be charged for the reinstatement.

Pistol training

The required training or safety program for eligibility for a CPL must be provided within five years preceding the date of application for a CPL. A certificate of completion must, after December 1, 2015, contain the instructor's name and address, and telephone number if available and the name and telephone number of the state agency or state or national firearms training organization that has certified the individual as an instructor, his or her instructor certification number, if any, and the expiration date of the certification; this would have to be printed on the certification or provided in a separate document.

The instructor could be certified by another state in addition to this state or a national firearms training organization as is currently required. A county clerk could not require any other certification or require an instructor to register with the county or county clerk.

A training certificate that does not meet state requirements applicable at the time of issuance could otherwise meet the act's requirements if the applicant provides information that reasonably demonstrates that the certificate or the training meets applicable requirements.

Compilation of firearms laws by LSB

Currently, the Legislative Service Bureau must compile the Michigan firearms laws that apply to carrying a concealed pistol and provide copies to each county board for distribution. The bill would require the compilation to be provided to the MSP in an electronic format. The MSP must then provide a copy to each county clerk. MSP must also provide forms to appeal a notice of statutory disqualification, or suspension or revocation of a license. The compilation of the firearms laws and appeal forms would be provided by electronic format.

The county clerk would have to distribute the compilation and forms at no charge to CPL applicants at the time the application is submitted and require the applicant to sign a written acknowledgement of the receipt of those documents.

Concealed pistol application kits

Under the bill, kits would be available only at the offices of county clerks, during normal business hours, and other provisions would be amended to apply only to county clerks.

The Department of State Police (MSP) would now provide the application kits to county clerks in electronic format.

Repealers

The bill would repeal Section 6a (MCL 28.426a) which permits concealed weapon licensing boards to issue a license to certain businesses that deal with or transport large sums of money (e.g., banks, railways) to equip its premises or vehicles with gas ejecting devices for the purpose of protecting the premises or vehicles from criminal assaults.

The bill would also repeal Section 5m (28.425m) which requires certain actions by county prosecutors when a CPL holder is charged and/or convicted of a criminal offense.

Effective Dates

Senate Bill 34: Sections 5b, 5l, and 5x of the bill take effect 90 days after enactment. Sections 5m and 6a will be repealed 90 days after the bill is enacted. The remaining sections take effect December 1, 2015.

Senate Bill 35 would take effect 90 days after enactment.

MCL 28.421 et al.

BACKGROUND INFORMATION:

The bills are similar to Senate Bills 789 and 790 of the 2013-2014 legislative session. The bills were enrolled but subsequently vetoed by the governor due to a provision in Senate Bill 789 that would have allowed a person who was the subject of a restraining order (PPO) for domestic violence or stalking to qualify for a CPL unless the PPO specifically restricted the person from purchasing or being in possession of a firearm.

FISCAL INFORMATION:

Senate Bill 34 (H-1), as reported from committee, would have a fiscal impact on the Department of State Police (MSP) and counties to the extent that SB 34 (H-1) significantly adjusts the fees associated with concealed pistol licenses (CPL) and substantially alters the roles and responsibilities of the MSP and counties as they pertain to the application for and issuance of CPLs; redirecting the revenue generated by fees and shifting the expenditures from county sheriffs' offices to the MSP.

Increase CPL Fees

Under current law, \$64 of the \$105 fee for both initial and renewal CPL applications is credited to the MSP while \$26 is credited to county clerks and \$15 to county sheriffs' offices. SB 34 (H-1) would reduce the initial CPL application fee by \$5 to \$100, of which \$74 would be credited to the MSP and \$26 to the counties' Concealed Pistol Licensing Funds, and raise the renewal CPL application fee by \$10 to \$115, of which \$79 would be credited to the MSP and \$36 to the counties' Concealed Pistol Licensing Funds.

Department of State Police

The MSP would continue to be responsible for many duties pertaining to fingerprint checks, database maintenance, recordkeeping, and information distribution related to CPL applicants and holders. Under SB 34 (H-1), the MSP would also be responsible for investigating CPL applicants, currently performed by county sheriffs' offices (sheriffs), evaluating CPL applications, currently performed by county concealed weapons licensing boards (CWLB), distributing digitized photographs obtained from the Department of State to county clerks, and developing and providing a postal process and an online system for CPL application by 12/01/2018.

Currently, revenue generated from the \$64 of the CPL application fee is deposited into the Criminal Justice Information System Services (CJIC) Fees fund and is comingled with revenues from other fees. Multiplying the average number of initial and renewal CPL applications per annum between July 1, 2008 and June 30, 2013 (92,197) with the CPL application fee allocated to the MSP (\$64), results in \$5.9 million in revenue per annum over the five year period.¹

Direct and indirect expenditures related to MSP's current CPL responsibilities are not separately classified within the state accounting system. Thus, it is not possible to independently ascertain the purposes of expenditures from revenue generated by CPL application fees. However, according to the MSP, revenue from each CPL application fee is expended as follows: \$30 for MSP fingerprint check, \$14.50 for FBI fingerprint check, and \$19.50 for MSP recordkeeping, administrative, and information technology support costs and departmental overhead.

The MSP estimates that the administrative and investigative responsibilities under SB 34 (H-1) would require an additional 13.0 FTEs and approximately \$1.3 million per annum in additional funding. Due to the lack of sufficient classification detail related to the CJIC Fees fund within the state's account system, it is not possible to assess whether current revenue specifically generated by the CPL application fees is adequate to support the \$1.3 million in additional estimated costs.² Yet, the MSP has indicated that the adjustments to initial and renewal application fee amounts and distribution would support the estimated administrative and investigative costs engendered by SB 34 (H-1).

¹ Data pertaining to annual CPL applications classified by initial and renewal applications was not available at the time this analysis was performed. Such parsed data is required to estimate the fiscal impact of the differentiation and adjustment to CPL application fees under SB 34 (H-1).

² Prior to FY 2011-12 significant amounts (ranging from \$1,000 to \$1.2 million per annum, totaling \$6.7 million since FY 1994-95) of unexpended and unencumbered revenue within the CJIC Fees fund year lapsed into the General Fund at the close of each fiscal year. However, since FY 2011-12 and projected through FY 2017-18, significant expenditures have been or are projected to be made from the from the CJIC Fees fund for the improvement and enhancement of several information technology systems utilized by the MSP (i.e., \$3.4 million related to the Automated Incident Capture System (AICS) was approved in FY 2011-12 and is estimated for completion during FY 2014-15; \$3.8 related to the Dashboard, electronic Automated Incident Capture System (eAICS), Statewide Network of Agency Photos (SNAP), and the Criminal History Records Internet Subscription Service (CHRISS) was approved in FY 2012-13 and is estimated for completion during FY 2016-17; and \$7.7 million related to the Automated Fingerprint Identification System (AFIS) and the Criminal History Records Internet Subscription Service (CHRISS) was approved in FY 2013-14 and is estimated for completion during FY 2017-18.)

Local Units of Government

County Clerks' Offices

County clerks' offices (clerks) would continue to receive \$26 of each CPL application fee but would be statutorily responsible for many of the administrative responsibilities currently vested in CWLBs as well as some additional administrative duties. However, clerks currently act as the clerks for CWLBs and are likely performing many of the administrative functions of the CWLBs that would be vested with clerks under SB 34 (H-1).

County Sheriffs' Offices

Sheriffs' currently receive \$15 of each CPL application and are potentially subsequently remunerated (out of the \$26 allocated to clerks) for their costs to provide CPL applications, serve on CWLBs, take fingerprints, and perform name-based background checks. Under SB 34 (H-1), the CPL application fee would be reduced by \$15 and sheriffs would no longer receive \$15 from the CPL application fee, nor would sheriffs be responsible for any of the above duties. However, sheriffs would be able to charge a \$15 fee for taking fingerprints as would the MSP, clerks, and local law enforcement agencies.

County Prosecutors' Offices

County prosecutors' offices (prosecutors) are currently able to serve on CWLB, presenting evidence and providing notification pertaining to CPL applicants and holders, and are potentially subsequently remunerated (out of the \$26 allocated to clerks) for their costs of performing these duties. Under SB 34 (H-1), prosecutors would no longer have any statutory responsibilities pertaining to the application for and the evaluation and issuance of CPLs.

BACKGROUND INFORMATION:

According to survey data collected by MSP from counties for the period from July 2012 through June 2013 and exhibited in the table below, the expenditures incurred by counties in performing their responsibilities related to the application for and the evaluation and issuance of CPLs varies widely and does not appear to be correlated with county population. However, assuming the accuracy of the survey data, the aggregate amounts (i.e., weighted averages for the per CPL data) seem to indicate that the current fees were nearly sufficient for the "average" county to perform their responsibilities during the reporting period.

**County CPL Fiscal Data
07/01/12-06/30/13**

County	Number of CPLs	Revenue (\$41/CPL)	Expenditures	Net Income (Loss)	Expenditure per CPL	Net Income (Loss) per CPL
Alcona	283	\$11,603	\$13,813	(\$2,210)	\$48.81	(\$7.81)
Alger	NA	NA	NA	NA	NA	NA
Allegan	NA	NA	NA	NA	\$39.05	\$1.95

Alpena	519	\$21,279	\$19,937	\$1,342	\$38.41	\$2.59
Antrim	318	\$13,038	\$20,492	(\$7,454)	\$64.44	(\$23.44)
Arenac	138	\$5,658	\$8,359	(\$2,701)	\$60.57	(\$19.57)
Baraga	NA	NA	NA	NA	NA	NA
Barry	1,012	\$41,492	\$20,512	\$20,980	\$20.27	\$20.73
Bay	1,428	\$58,548	\$66,792	(\$8,244)	\$46.77	(\$5.77)
Benzie	133	\$5,453	\$1,367	\$4,086	\$10.28	\$30.72
Berrien	1,537	\$63,017	\$69,174	(\$6,157)	\$45.01	(\$4.01)
Branch	454	\$18,614	\$44,737	(\$26,123)	\$98.54	(\$57.54)
Calhoun	NA	NA	NA	NA	\$70.63	(\$29.63)
Cass	702	\$28,782	\$27,753	\$1,029	\$39.53	\$1.47
Charlevoix	283	\$11,603	\$18,477	(\$6,874)	\$65.29	(\$24.29)
Cheboygan	467	\$19,147	\$20,842	(\$1,695)	\$44.63	(\$3.63)
Chippewa	433	\$17,753	\$22,823	(\$5,070)	\$52.71	(\$11.71)
Clare	NA	NA	NA	NA	NA	NA
Clinton	1,419	\$58,179	\$56,418	\$1,761	\$39.76	\$1.24
Crawford	206	\$8,446	\$8,515	(\$69)	\$41.34	(\$0.34)
Delta	537	\$22,017	\$24,692	(\$2,675)	\$45.98	(\$4.98)
Dickinson	312	\$12,792	\$16,619	(\$3,827)	\$53.27	(\$12.27)
Eaton	1,765	\$72,365	\$63,386	\$8,979	\$35.91	\$5.09
Emmet	NA	NA	NA	NA	\$213.78	(\$172.78)
Genesee	6,441	\$264,081	\$170,482	\$93,599	\$26.47	\$14.53
Gladwin	479	\$19,639	\$14,532	\$5,107	\$30.34	\$10.66
Gogebic	145	\$5,945	\$2,831	\$3,114	\$19.52	\$21.48
Grand Traverse	1,254	\$51,414	\$41,660	\$9,754	\$33.22	\$7.78
Gratiot	620	\$25,420	\$8,395	\$17,025	\$13.54	\$27.46
Hillsdale	711	\$29,151	\$13,671	\$15,480	\$19.23	\$21.77
Houghton	285	\$11,685	\$10,038	\$1,647	\$35.22	\$5.78
Huron	389	\$15,949	\$8,951	\$6,998	\$23.01	\$17.99
Ingham	2,489	\$102,049	\$192,350	(\$90,301)	\$77.28	(\$36.28)
Ionia	925	\$37,925	\$13,679	\$24,246	\$14.79	\$26.21
Iosco	NA	NA	NA	NA	\$22.04	\$18.96
Iron	210	\$8,610	\$7,829	\$781	\$37.28	\$3.72
Isabella	NA	NA	NA	NA	\$163.00	(\$122.00)
Jackson	2,037	\$83,517	\$93,074	(\$9,557)	\$45.69	(\$4.69)
Kalamazoo	NA	NA	NA	NA	NA	NA
Kalkaska	269	\$11,029	\$7,791	\$3,238	\$28.96	\$12.04
Kent	4,530	\$185,730	\$176,531	\$9,199	\$38.97	\$2.03
Keweenaw	34	\$1,394	\$2,296	(\$902)	\$67.53	(\$26.53)
Lake	216	\$8,856	\$37,684	(\$28,828)	\$174.46	(\$133.46)
Lapeer	1,755	\$71,955	\$97,634	(\$25,679)	\$55.63	(\$14.63)
Leelanau	199	\$8,159	\$10,378	(\$2,219)	\$52.15	(\$11.15)
Lenawee	NA	NA	NA	NA	\$34.95	\$6.05
Livingston	3,302	\$135,382	\$127,579	\$7,803	\$38.64	\$2.36
Luce	120	\$4,920	\$6,088	(\$1,168)	\$50.73	(\$9.73)
Mackinac	185	\$7,585	\$18,124	(\$10,539)	\$97.97	(\$56.97)
Macomb	NA	NA	NA	NA	NA	NA
Manistee	255	\$10,455	\$13,459	(\$3,004)	\$52.78	(\$11.78)
Marquette	1,099	\$45,059	\$3,561	\$41,498	\$3.24	\$37.76
Mason	441	\$18,081	\$19,146	(\$1,065)	\$43.42	(\$2.42)
Mecosta	622	\$25,502	\$15,961	\$9,541	\$25.66	\$15.34

Menominee	264	\$10,824	\$17,429	(\$6,605)	\$66.02	(\$25.02)
Midland	1,183	\$48,503	\$122,398	(\$73,895)	\$103.46	(\$62.46)
Missaukee	231	\$9,471	\$3,830	\$5,641	\$16.58	\$24.42
Monroe	2,648	\$108,568	\$109,176	(\$608)	\$41.23	(\$0.23)
Montcalm	634	\$25,994	\$67,997	(\$42,003)	\$107.25	(\$66.25)
Montmorency	189	\$7,749	\$8,936	(\$1,187)	\$47.28	(\$6.28)
Muskegon	2,055	\$84,255	\$52,338	\$31,917	\$25.47	\$15.53
Newaygo	768	\$31,488	\$64,852	(\$33,364)	\$84.44	(\$43.44)
Oakland	16,668	\$683,388	\$546,274	\$137,114	\$32.77	\$8.23
Oceana	NA	NA	NA	NA	\$60.65	(\$19.65)
Ogemaw	351	\$14,391	\$18,288	(\$3,897)	\$52.10	(\$11.10)
Ontonagon	99	\$4,059	\$428	\$3,631	\$4.32	\$36.68
Osceola	405	\$16,605	\$25,973	(\$9,368)	\$64.13	(\$23.13)
Oscoda	133	\$5,453	\$5,487	(\$34)	\$41.26	(\$0.26)
Otsego	353	\$14,473	\$3,127	\$11,346	\$8.86	\$32.14
Ottawa	2,753	\$112,873	\$121,251	(\$8,378)	\$44.04	(\$3.04)
Presque Isle	225	\$9,225	\$13,353	(\$4,128)	\$59.35	(\$18.35)
Roscommon	348	\$14,268	\$6,071	\$8,197	\$17.45	\$23.55
Saginaw	2,565	\$105,165	\$122,960	(\$17,795)	\$47.94	(\$6.94)
St. Clair	2,608	\$106,928	\$115,697	(\$8,769)	\$44.36	(\$3.36)
St. Joseph	840	\$34,440	\$36,018	(\$1,578)	\$42.88	(\$1.88)
Sanilac	545	\$22,345	\$40,870	(\$18,525)	\$74.99	(\$33.99)
Schoolcraft	136	\$5,576	\$6,332	(\$756)	\$46.56	(\$5.56)
Shiawassee	1,432	\$58,712	\$61,099	(\$2,387)	\$42.67	(\$1.67)
Tuscola	940	\$38,540	\$21,886	\$16,654	\$23.28	\$17.72
Van Buren	971	\$39,811	\$41,798	(\$1,987)	\$43.05	(\$2.05)
Washtenaw	3,124	\$128,084	\$118,773	\$9,311	\$38.02	\$2.98
Wayne	23,763	\$974,283	\$1,096,389	(\$122,106)	\$46.14	(\$5.14)
Wexford	454	\$18,614	\$9,989	\$8,625	\$22.00	\$19.00
AGGREGATE (All Counties Submitting Detailed Data)	107,643	\$4,413,363	\$4,497,454	(\$84,091)	\$41.78	(\$0.78)

SOURCE: Annual survey form distributed by MSP to the 83 county clerks' offices for the reporting period from 07/01/12 to 06/30/13.

NOTE: Some counties did not provide any data, while other counties provided only partial data; either omitting unidentified related costs borne by relevant entities or aggregate amounts which cannot be imputed *ex post*.

ARGUMENTS:

For:

Legislation enacted in 2001 was supposed to make Michigan a "shall issue" state, meaning that an applicant who met all statutory requirements would be issued a concealed pistol license (CPL). However, that legislation kept the old county gun board process and enough discretion on the part of gun board members to continue to result in differences in implementation from county to county. The result, say critics, has been that many

applicants who were not otherwise disqualified under the statute have still been turned down depending on the county in which they reside.

By eliminating the county gun boards, Senate Bill 34 resolves the issues left over by the 2001 legislation. The bill keeps many of the current provisions regarding CPLs, but updates them for greater efficiency. County clerks, who do the administrative work of the gun boards, will assume a similar but expanded role in being the entity that issues, denies, or revokes or suspends CPLs. However, county clerks will not determine eligibility. The Department of State Police will assume responsibility to conduct investigations of all applicants and will notify the appropriate county clerk as to the eligibility of an applicant, including any changes in a CPL holder's eligibility that will necessitate a suspension or revocation of the license. By 2018, the MSP must also have a process by which CPL holders may renew their licenses online. County sheriffs could continue to provide fingerprinting services for applicants but would have no other responsibilities under the bill. This should free up sheriffs and their deputies to attend to public safety concerns at a time when many are facing reduced staffing due to continued revenue shortfalls. Circuit courts will hear petitions to restore a person's right to possess a firearm instead of the local gun board. These and other changes by Senate Bill 34 should address many of the concerns by advocates of reform without sacrificing public safety.

For:

The current version of Senate Bill 34 is superior to last year's Senate Bill 789. For instance, Senate Bill 34 retains the provision that currently disqualifies a person who is the subject of a PPO for domestic violence or stalking from being approved for a CPL. Thus, those persons will still be ineligible for a CPL. Further, application fees were raised to provide adequate funding for MSP to hire civilian personnel needed to help in the application process. Other revisions were also made for clarity and efficiency.

Against:

Some still say that the bills are a solution in need of a problem. By and large, the 2001 reforms did make for a more uniform and efficient system, as evidenced by the large increase in the numbers of CPL holders (from about 58,000 in 2001 to about half a million currently, by some estimates). Others are concerned that eliminating local gun boards also eliminates local knowledge of potentially dangerous applicants. Some could obtain CPLs simply because their conduct didn't rise to the level of being entered into LEIN – the Law Enforcement Information Network, a database MSP will use to determine eligibility. Further, due to HIPAA compliance, health and mental health records are inaccessible. Except for court-ordered involuntary treatment, for which MSP could access the records, MSP must rely on an applicant's honesty in disclosing a mental illness that would otherwise render the applicant ineligible for a CPL. However, the current process, which allows a county gun board to conduct a face-to-face interview, provides a safety net in which it could be discovered if a CPL would be inappropriate for a particulate applicant. Considering that some of the worse mass shootings have been at the hands of a shooter with a mental illness, keeping the local gun boards provides an important layer of safety.

POSITIONS:

The following entities testified in support of, or indicated support for, Senate Bill 34 and/or 35 on 2-10-15 or 2-17-15:

The Department of State Police
NRA-ILA
Michigan Association of County Clerks
Oakland County Sheriff
Michigan Council of Professional Investigators
Michigan Coalition of Responsible Gun Owners
Shooters Alliance for Firearm Rights

Michigan Open Carry testified it is neutral on Senate Bill 34. (2-10-15)

Physicians for Prevention of Gun Violence testified in opposition to the Senate Bill 34. (2-10-15)

The Oakland County Clerk indicated opposition to Senate Bill 34. (2-10-15)

The Michigan Association of Counties indicated opposition to Senate Bill 34. (2-10-15)

Legislative Analyst: Susan Stutzky
Fiscal Analyst: Paul Holland

■ 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.