

Legislative Analysis



ALLOW QUALIFIED MILITARY SPOUSE TO PRACTICE LAW WITHOUT BAR EXAM

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**House Bill 5288 (passed by the House as H-1)
Sponsor: Rep. Robert Wittenberg**

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

**House Bill 5289 (passed by the House as H-1)
Sponsor: Rep. David C. Maturen**

**Committee: Military and Veterans Affairs
Complete to 10-27-16**

(Enacted as Public Acts 423 and 424 of 2016)

SUMMARY:

Under the Revised Judicature Act (MCL 600.101 et al.), the State Board of Law Examiners has charge of the investigation and examination of all persons who initially apply for admission to the bar of this state (i.e., to become licensed to practice law). The BLE administers the Michigan Bar Examination twice each year.

Taken together, House Bills 5288 and 5289 would amend the Revised Judicature Act to permit the spouse of an active service member to apply for admission to the bar in this state *without examination* if certain conditions are met to the satisfaction of the Board of Law Examiners. The bills are tie-barred to each other, meaning neither could take effect unless both are enacted, and would take effect 90 days after the date they are enacted into law.

A detailed explanation of each bill follows.

House Bill 5289 would add Section 947 to the Revised Judicature Act to say that an individual could apply for admission to the bar in this state *without examination* if all the applicant met the following criteria:

- Is the spouse of an individual who is on active duty in the armed forces of the United States and assigned to a duty station in Michigan.
- Is licensed to practice law in the court of last resort, and in good standing at the bar, of another state of the United States, the District of Columbia, or a territory of the United States.
- Has the qualifications as to moral character, citizenship, age, general education, fitness, and ability required for admission to the bar of this state.
- Has not previously taken and failed the examination for admission to the bar in Michigan.
- Is a graduate of a law school that was approved and accredited by the Council and Accreditation Committee of the section of legal education and admissions of the American Bar Association at the time of graduation.
- Successfully passed the bar exam in another state, territory of the United States, or the District of Columbia.

- Taken and obtained a passing score on the multistate professional responsibility exam developed by the National Conference of Bar Exams.

Under House Bill 5288, if a military spouse is admitted to the bar and not subject to discipline, suspension, or disbarment for misconduct, the admission to the bar of this state is valid until the date the Board of Law examiners receives written notice of any of the following events:

- The service member to whom the spouse is married is no longer an individual who is on active duty in the armed forces of the United States.
- The military spouse and service member are no longer married.
- The service member receives a permanent transfer to a duty station outside of Michigan. However, if the service member receives an unaccompanied or remote assignment with no dependents authorized, the spouse could continue to practice law in Michigan until the service member is assigned to a duty station at which dependents are authorized. The military spouse would have to notify the Board when that assignment occurs.

A military spouse attorney would have to provide notice to the Board of Law Examiners within 30 days after an event described in the bill first occurs. However, if the occurrence of that event is due to the death or disability of the service member, notice would have to be provided within 180 days of the death or disability of the service member.

FISCAL IMPACT:

Depending on the number of active duty service members' spouses who meet all specified criteria in the bill and apply for admission to the bar in Michigan without examination, there could be less examination fee revenue received in the Law Exam Fee Fund.

POSITIONS:

Department of Military and Veterans Affairs supports the bills. (9-15-16)

American Legion and Commanders Group supports the bills. (9-15-16)

Military Order of the Purpose Heart supports the bills. (9-15-16)

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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.