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## BILL ANALYSIS



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Senate Bills 34 and 35 (as introduced 1-27-15)  
Sponsor: Senator Mike Green  
Committee: Judiciary

Date Completed: 1-27-15

**CONTENT**

**Senate Bill 34 would amend the handgun licensure law to do the following:**

- Eliminate county concealed weapon licensing boards effective October 1, 2015, and require the boards to transfer all license applications and official documents to the county clerks.
- Reduce the timeline for processing an initial or renewal concealed pistol license (CPL) application.
- Revise procedures for applying for and obtaining a CPL.
- Require the Michigan Department of State Police (MSP) to verify, through the Law Enforcement Information Network (LEIN) and a national criminal background check, the requirements for an applicant to receive a CPL and report any statutory disqualification to the county clerk.
- Require each county to establish a concealed pistol licensing fund for administration of the law.
- Reduce the application and licensing fee for a CPL from \$105 to \$100, effective October 1, 2015, and revise requirements for the distribution of fee revenue.
- Revise the fingerprinting requirements for a CPL applicant.
- Require the entity providing fingerprint services to issue a receipt to an applicant.
- Provide that, if a CPL or notice of statutory disqualification were not issued within 45 days after the fingerprinting receipt was issued, the receipt would temporarily serve as a CPL.
- Delete a requirement that a licensing board deny a CPL to an applicant who was not qualified under the law to receive a license, and instead require the county clerk to send a notice of statutory disqualification to an applicant who was not qualified.
- Revise provisions related to the appeal of a license denial.
- Delete provisions for the awarding of a temporary CPL.
- Provide for an emergency CPL for an applicant who was a petitioner for a domestic violence or stalking personal protection order (PPO) or if the county sheriff determined the applicant or a household or family member was endangered by the applicant's inability to immediately obtain a CPL.
- Revise procedures for the renewal of a CPL, including requiring an application and licensing fee of \$115.
- Require the MSP to establish, by October 1, 2018, a system for submitting renewal applications online or by first class mail.
- Allow a member of the U.S. Armed Forces, the Armed Forces Reserve, or the Michigan National Guard who was stationed outside the State to apply to renew his or her CPL by mail, until October 1, 2018.

- **Require the county clerk to notify a licensee before his or her CPL expired.**
- **Revise procedures and the basis for suspension or revocation of a CPL.**
- **Specify that a person could voluntarily surrender his or her CPL without explanation.**
- **Revise requirements for the pistol safety training course required for a CPL.**
- **Revise provisions prohibiting a CPL holder from carrying a concealed pistol or taser while he or she is under the influence of alcohol and/or a controlled substance.**
- **Require the Secretary of State to make a digitized photograph from a driver license or personal ID card available for use on a CPL and require a CPL to be constructed of plastic laminated paper or hard plastic.**
- **Revise information that must be included in a database maintained, and an annual report to the Legislature submitted, by the MSP.**

**The bill also would repeal sections of the law that do the following:**

- **Require a prosecuting attorney to notify the appropriate licensing board of a criminal charge against, or conviction of, a CPL holder.**
- **Allow a licensing board to issue a license for the use of gas ejecting devices to protect premises, vehicles, people, and property from criminal assaults.**

**Senate Bill 35 would amend the Code of Criminal Procedure to revise citations to provisions of the handgun licensure law, reflecting changes proposed by Senate Bill 34.**

Section 5x of Senate Bill 34, which would require each county to establish a concealed pistol licensing fund, would take effect on April 1, 2015. The provision allowing a member of the Armed Forces to apply for renewal by mail also would take effect on that date. The rest of the bill would take effect on October 1, 2015.

Senate Bill 35 would take effect on October 1, 2015, and is tie-barred to Senate Bill 34.

A detailed description of Senate Bill 34 follows.

#### Transfer of Licensing Board Authority

The handgun licensure law requires each county to have a concealed weapon licensing board consisting of the county prosecuting attorney, the county sheriff, and the MSP Director, or the designee of any of those individuals. If a county prosecuting attorney chooses not to be a member, the county board of commissioners must appoint a replacement who is a firearms instructor and meets prescribed qualifications. To obtain a CPL, an individual must apply to the concealed weapon licensing board in the county in which he or she lives. The bill would delete those provisions.

Beginning October 1, 2015, the bill would eliminate the county concealed weapon licensing boards. Each county licensing board would have to transfer all license applications and official documents in its possession to the clerk of the county in which the board was located by midnight on September 30, 2015. All pending applications would remain in place and be considered to have an application date of October 1, 2015. The county clerk would have to process those applications as provided in the law. The clerk could not charge any additional fee for receiving or processing an application submitted previously to the county board, except as otherwise provided in the law. A license to carry a concealed pistol issued by a county licensing board before midnight on September 30, 2015, would be valid and remain in effect until it expired or as otherwise provided by law.

The bill specifies that the county clerk would be responsible for all of the following:

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

### License Application & Issuance

Evaluation & Investigation of Applicants. Under the law, the concealed weapon licensing board has exclusive authority to issue, deny, revoke, or suspend a CPL. The board may convene up to three panels to assist it in evaluating applicants. The bill would delete those provisions.

As part of the licensing process, a concealed weapon licensing board may investigate an applicant for licensure. The board may require the applicant to appear before it at a mutually agreed-upon time for a conference. The bill instead would require the MSP to verify whether an applicant was eligible to receive a CPL.

Currently, the county sheriff, on behalf of the concealed weapon licensing board, must verify certain requirements through LEIN and report his or her findings to the concealed weapon licensing board. The bill would delete those provisions. The bill instead would require the MSP to verify the requirements through LEIN and the National Instant Criminal Background Check System and report to the county clerk any statutory disqualifications that applied to an applicant.

Application Process & Required Information. To obtain a CPL, an individual must apply to the concealed weapon licensing board in the county in which he or she lives. The bill would require an applicant to apply to the county clerk in the county in which he or she lives. The bill specifies that not more than one application could be submitted in any calendar year. An application would not be considered complete until the applicant submitted all of the required information and fees and had fingerprints taken. An application would be considered withdrawn if the applicant did not have fingerprints taken within 45 days of the date the application was filed. A completed application would expire one year from the date of the application.

The county clerk would have to issue an applicant a receipt for his or her application at the time it was submitted. The receipt would have to contain all of the following:

- The applicant's name and State-issued driver license or personal ID card number.
- The date and time the receipt was issued.
- The amount paid.
- The name of the county in which the receipt was issued and an impression of the county seal.
- A specific statement that the receipt was issued for the purpose of applying for a concealed pistol license and for obtaining fingerprints related to that application.

The law requires the application for a CPL to contain specific information, including the applicant's name and date of birth, and the address of his or her primary residence. The bill also would require an application to include the applicant's State-issued driver license or personal ID card number. It would delete a requirement that the application include the name of the local police department, if the applicant lives in a city, village, or township that has a police department.

Currently, an application must include the names, addresses, and telephone numbers of two individuals who are references for the applicant. The bill would delete this requirement.

An application also must include a passport-quality photograph provided by the applicant at the time of application. Under the bill, an application would have to include such a photograph only if the applicant did not have a digitized photograph on file with the Secretary of State. The bill would require the Secretary of State to make a digitized photograph taken of an applicant for a driver license or personal ID card available to the MSP for use under the law. The MSP would have to give the photograph of an applicant received from the Secretary of State to the county clerk. The clerk would have to use it on the individual's CPL unless the applicant did not have a digitized photograph on file with the Secretary of State, in which case he or she would have to provide a passport-quality photograph.

The county clerk could not require the applicant to submit any additional forms, documents, letters, or other evidence of eligibility for obtaining a CPL, except as required under the law.

Application Fees. The law prescribes a nonrefundable application and licensing fee of \$105, payable to the county. Under the bill, beginning October 1, 2015, each applicant would have to pay an application and licensing fee of \$100 by any method of payment accepted by the county for payments of other fees and penalties. Except as otherwise provided under the law, no other charge, fee, cost, or assessment would be required of the applicant.

Currently, the county treasurer must deposit \$41 of each fee in the county general fund, crediting \$26 to the county clerk and \$15 to the county sheriff. The bill specifies instead that, until October 1, 2015, the county treasurer would have to deposit \$15 of each application and licensing fee in the general fund of the county and credit that deposit to the county sheriff, and deposit \$26 of each fee in the county's concealed pistol licensing fund. Beginning on October 1, 2015, the county treasurer would have to deposit \$26 of each application and licensing fee in the county's concealed pistol licensing fund. As currently required, the county treasurer would have to forward the balance of the fee to the State Treasurer for deposit in the General Fund to the credit of the MSP.

Verification of Information. The law requires the county sheriff to verify that an applicant meets the law's requirements for a license through LEIN and report his or her findings to the board. Under the bill, the MSP would have to conduct that verification and report to the county clerk all statutory disqualifications that applied to an applicant.

Currently, if the applicant lives in a city, village, or township that has a police department, the licensing board must contact that police department to determine only whether it has any information relevant to the investigation of whether the applicant is eligible to receive a CPL. The bill would delete that requirement.

Fingerprinting. Under the law, after submitting an application and paying the required fee, an individual must request and have classifiable fingerprints taken by the county sheriff or a local police agency, if that police agency has fingerprinting capability. Under the bill, the applicant would have to request that classifiable fingerprints be taken by the county clerk, the MSP, the county sheriff, a local police agency, or another entity with fingerprinting capability. The bill also specifies that a person who had classifiable fingerprints taken under an application for an emergency license would not have to have additional fingerprints taken.

If the individual requests that the fingerprints be taken by a local police agency, he or she also must pay a fee of \$15 to that police agency. The bill would require the payment of that fee if the individual requested classifiable fingerprints to be taken by any of the entities mentioned above. The bill would require a county clerk to deposit any fee it accepted for fingerprinting in the county's concealed pistol licensing fund.

The law requires the sheriff or police agency to take the fingerprints within five business days after the request. The bill also would require the other entities to provide reasonable access

to fingerprinting services during normal business hours as necessary to comply with the fingerprinting requirements.

The bill would require an entity providing fingerprinting services to issue the applicant a receipt at the time his or her fingerprints were taken. The county clerk, MSP, county sheriff, local police agency, or other entity could not provide a receipt unless the applicant provided a receipt of his or her application for a CPL. A receipt for fingerprint services would have to include all of the following:

- The applicant's name.
- The date and time the receipt was issued.
- The amount paid.
- The name of the entity providing the fingerprint services.
- The applicant's State-issued driver license or personal ID card number.
- A specific statement that the receipt was issued for the purpose of applying for a CPL.

The statement would have to include information that, if a license or notice of statutory disqualification were not issued within 45 days after the date the fingerprinting receipt was issued, the receipt would serve as a CPL when carried with an official State-issued driver license or personal ID card. The receipt would be valid as a CPL until the county clerk issued a license or notice of statutory disqualification. The receipt would not exempt the person named in it from complying with all applicable laws for the purchase of firearms.

The law requires the fingerprints to be forwarded to the MSP for comparison with fingerprints already on file. The MSP must forward them to the FBI. Within 10 days after receiving a report of the fingerprints from the FBI, the MSP must give a copy to the submitting agency and the appropriate clerk. The bill instead would require the MSP to send the county clerk a list of an applicant's statutory disqualifications within five business days of completing the required verification.

Under the law, except as otherwise provided, the concealed weapon licensing board may not issue a CPL until it receives the fingerprint comparison, and may deny a license if a person's fingerprints are not classifiable by the FBI. Under the bill, the county clerk could not issue a CPL until he or she received the report of statutory disqualifications. If an individual's fingerprints were not classifiable, the MSP would have to take the person's fingerprints again, at no charge, or provide for the comparisons to be conducted through alternative means. The county clerk could not issue a notice of statutory disqualification because an individual's fingerprints were not classifiable by the FBI.

Issuance of License or Notice of Disqualification. Under the law, the licensing board must issue or deny a license within 45 days after receiving the fingerprint comparison report. The bill would require the MSP to complete its required verification of an applicant's qualifications and the county clerk to issue a license or a notice of statutory disqualification within 45 days after the date the applicant had classifiable fingerprints taken. The county clerk would have to include an indication on the license if an individual were exempt from the prohibitions against carrying a concealed pistol on certain premises, if the applicant provided acceptable proof that he or she qualified for that exemption.

The law requires the concealed weapon licensing board to deny a CPL to an applicant who is not qualified under the law to receive the license. The bill specifies instead that the county clerk would have to send by first-class mail a notice of statutory disqualification or a license under the Act.

Currently, if the licensing board denies issuance of a CPL, it must take certain actions within five business days to inform the applicant. Under the bill, this would apply to a county clerk who issued a notice of statutory disqualification. Currently, the notice to the applicant must

include copies of any writings, photographs, records, or other documentary evidence upon which the denial is based. Under the bill, the notice instead would have to include the source of the record for each statutory disqualification identified and the contact information for the source of the record. The county clerk also would have to inform the applicant that he or she should contact the source of the record to correct any errors in the record resulting in the statutory disqualification.

Temporary License/Emergency License. Currently, if the concealed weapon licensing board does not receive the fingerprint comparison report within 60 days after it is forwarded to the MSP, the board must issue a temporary license to an applicant who is otherwise qualified for a license. A temporary license is valid for 180 days or until the licensing board receives the fingerprint comparison report and issues or denies a license. The law requires an applicant who received a temporary license to surrender it to the licensing board when a regular license is issued or denied. The bill would delete the provisions for a temporary license.

Under the bill, if a license or notice of statutory disqualification were not issued within 45 days after the date the applicant had classifiable fingerprints taken, the receipt for fingerprinting services would serve as a CPL when carried with a State-issued driver license or personal ID card and would be valid until the county clerk issued a license or notice of disqualification.

If a concealed weapon licensing board determines that there is probable cause to believe that the safety of a CPL applicant or the safety of a member of his or her family is endangered by the applicant's inability to immediately obtain a CPL, the licensing board may issue a temporary license. Such a temporary license is unrestricted and is valid for up to 180 days. It may be renewed for one additional period of up to 180 days. The bill instead would require a county clerk to issue an emergency license to carry a concealed pistol to an applicant who was a petitioner for a PPO in a domestic violence or stalking situation, or to an applicant if the county sheriff determined that there was clear and convincing evidence to believe that the safety of the applicant or the safety of a member of his or her family or household was endangered by the applicant's inability to immediately obtain a CPL. Clear and convincing evidence would include, but would 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 applicant's family or household.

The county sheriff could issue a determination under the emergency license provision only to an individual who was otherwise eligible to receive a CPL based on a criminal record check through LEIN and only after the sheriff had taken the applicant's fingerprints. A county sheriff who made a determination under this provision, performed a criminal record check, and took the applicant's fingerprints could charge a fee of up to \$15.

An applicant for an emergency license would have to complete a pistol training course and apply for a license within 10 business days of applying for an emergency license. An emergency license would be unrestricted and would be valid for 45 days or until the county clerk issued a CPL or a notice of statutory disqualification, whichever occurred first. An individual could not obtain more than one emergency license in any five-year period. If a county clerk issued a notice of statutory disqualification to an applicant who received an emergency license, the applicant immediately would have to surrender the emergency license by mail or in person if it had not expired. Failure to surrender a license after notification of a statutory disqualification would be a misdemeanor punishable by up to 93 days' imprisonment and/or a maximum fine of \$500.

A county clerk could charge a fee not to exceed \$10 for printing an emergency license. The clerk would have to deposit the fee in the county's concealed pistol licensing fund.

Licensee Responsibility. The law requires a CPL holder to carry his or her license at all times he or she is carrying a concealed pistol or taser. The bill also would require the licensee to

carry his or her State-issued driver license or personal ID card when carrying a concealed pistol or taser. A person who violates the requirement is responsible for a State civil infraction and may be fined up to \$100. The bill would require a fine of \$100.

A CPL holder who is carrying a concealed pistol or a taser and who is stopped by a peace officer must immediately disclose to the officer that he or she is carrying the weapon. A person who violates this requirement is responsible for a State civil infraction and may be fined up to \$500 or his or her CPL may be suspended for up to six months. For a subsequent offense within three years of a prior offense, the person may be fined up to \$1,000 and his or her CPL may be revoked. The bill would mandate those fines and suspension or revocation.

If a CPL holder is found responsible for either of the State civil infractions described above, the court must notify the MSP and the concealed weapon licensing board that issued the license. Under the bill, if a CPL holder were found responsible for a State civil infraction for failing to disclose to a peace officer that he or she was carrying a pistol or taser, the officer would have to notify the MSP, which would have to notify the county clerk who issued the license. The clerk would have to suspend or revoke the license and send notice of that action by first-class mail to the licensee's last known address. The MSP would have to immediately enter the suspension or revocation into LEIN.

Suspension or Revocation. Under the law, a concealed weapon licensing board that issued a CPL to an individual may revoke that license if it determines that he or she committed any violation of the handgun licensure law other than failing to have his or her CPL when carrying a concealed pistol or failing to show his or her CPL and ID to a peace officer. If the board determines that the individual has been found responsible for three or more State civil infraction violations of the law during the license period, the board must conduct a hearing and may suspend the person's CPL for up to one year. The bill provides instead that a county clerk who issued a license to a person to carry a concealed pistol would have to suspend, revoke, or reinstate a license if ordered by a court or if the county clerk were notified of a change in the licensee's eligibility to carry a concealed pistol.

Except as otherwise provided, the law specifies that a license may not be revoked except upon written complaint and an opportunity for a hearing before the licensing board. The board must give the person at least 10 days' notice of a hearing, by personal service or certified mail. Under the bill, except as otherwise provided, a license could not be suspended or revoked except upon written complaint and an opportunity to request the county clerk to conduct a review of the suspension or revocation.

If the concealed weapon licensing board is notified by a law enforcement agency or prosecuting official that an individual licensed to carry a concealed pistol were charged with a felony or misdemeanor, the board must immediately suspend the person's license until there is a final disposition of the charge. Under the bill, if a licensee were charged with a felony or misdemeanor, the court immediately would have to order the county clerk who issued the license to suspend it until there was a final disposition.

The law requires the licensing board to send notice of the suspension to the licensee's last known address. The notice must inform the person that he or she is entitled to a prompt hearing on the suspension, and the licensing board must conduct a prompt hearing if requested in writing. Under the bill, the court would have to notify the county clerk of each statutory provision with which the person had been charged. The county clerk would have to send notice of the suspension to the individual by first-class mail in a sealed envelope. The notice would have to include the statutory reason for the suspension, the source of the record supporting that suspension, the length of the suspension, and whom to contact for reinstating the license when the suspension expired, correcting errors in the record, or appealing the suspension.

Under the bill, if the court ordered a license suspended and the person were acquitted of the charge or the charge were dismissed, the court would have to notify the county clerk, who would have to automatically reinstate the license if it had not expired and the person were otherwise qualified to receive a CPL, as verified by the MSP. A clerk could not charge a fee for the reinstatement.

Under the law, the licensing board that issued a CPL must revoke that license if it determines that the individual is not eligible to receive a license to carry a concealed pistol. The bill specifies instead that the MSP would have to notify the county clerk who issued a CPL if it determined that there had been a change in a licensee's eligibility to receive the license. The county clerk would have to suspend, revoke, or reinstate the license as required under the law and immediately send notice to the person by first-class mail in a sealed envelope. The notice would have to include the statutory reason for the suspension, revocation, or reinstatement, the source of the record supporting that action, the length of the suspension or revocation, and whom to contact for correcting errors in the record, appealing the suspension or revocation, and reapplying for the license. The MSP would have to immediately enter the suspension, revocation, or reinstatement into LEIN.

The bill would require a suspension imposed under the law to be for a period stated in years, months, or days, or until the final disposition of the charge. The suspension also would have to state the date the suspension would end, if applicable. The licensee would have to promptly surrender his or her license to the county clerk after being notified that it had been revoked or suspended. Failure to surrender a suspended or revoked license would be a misdemeanor punishable by up to 93 days' imprisonment and/or a maximum fine of \$500.

Except as otherwise provided, if a license were suspended and surrendered, the applicant could apply for a renewal license when the suspension period expired. The county clerk or MSP, as applicable, would have to issue the applicant a receipt for his or her application at the time it was submitted.

If a license were suspended because of a domestic violence or stalking PPO and the license were surrendered, upon expiration of the PPO and notification to the county clerk, the clerk would have to automatically reinstate the license if it had not expired and the MSP had completed the required verification. The county clerk could not charge a fee for the reinstatement.

Under the law, if the concealed weapon licensing board determines by clear and convincing evidence based on specific articulable facts that an applicant poses a danger to himself or herself or to any other person, the board must immediately suspend the person's CPL pending a revocation hearing. The board must send the person notice of the suspension and inform him or her that he or she is entitled to a prompt hearing on the suspension. The bill would delete those provisions.

Delivery of License. The bill would require a county clerk issuing an initial or renewal license to mail it to the licensee by first-class U.S. mail in a sealed envelope.

Upon payment of the fee required for replacing a lost, stolen, or defaced license, a county clerk would have to issue a replacement license in person at the time of application unless the applicant requested that it be delivered by first-class mail. The law allows a CPL that is lost, stolen, or defaced to be replaced by the issuing county clerk for a replacement fee of \$10. The bill would require the county clerk to deposit a replacement fee in the county's concealed pistol licensing fund.

Voluntary Surrender of License. The bill specifies that a person licensed to carry a concealed pistol could voluntarily surrender the CPL without explanation. A county clerk would have to retain a surrendered license as an official record for one year after the license was



surrendered. If a licensee voluntarily surrendered a CPL, the county clerk would have to notify the MSP, which would have to enter into LEIN that the license was voluntarily surrendered and the date of surrender.

Immunity. The bill specifies that a county clerk, county sheriff, prosecuting attorney, police department, and the MSP would not be liable for civil damages as a result of the issuance of a license under the law to a person who later committed a crime or negligent act.

License Specifications. Beginning October 1, 2015, a CPL would have to be constructed of plastic laminated paper or hard plastic. No additional fee could be charged for the license unless otherwise prescribed under the law. A fee of up to \$10 could be charged for an optional hard plastic license, but only if the county clerk also provided the option of obtaining a plastic laminated paper license at no charge. A county clerk would have to deposit that fee in the county's concealed pistol licensing fund.

The law requires a CPL to contain all of the following:

- The licensee's full name and date of birth.
- A photograph and a physical description of the licensee.
- A statement of the effective dates of the license.
- An indication of exceptions authorized by the law applicable to the licensee.
- An indication whether the license is a duplicate.

Under the bill, a CPL also would have to contain the following information:

- The licensee's State-issued driver license or personal ID card number.
- The premises on which carrying a concealed pistol is prohibited under the law's no-carry zone provisions.
- The requirement to disclose to a peace officer that the person is a licensee and carrying a concealed pistol.
- An indication of whether the license was an emergency license.

The MSP or a county clerk could not require a licensee's signature to appear on a CPL.

Appeal of License Denial/Issuance Failure. Under the law, if the licensing board denies issuance of a license or fails to issue one as provided, the applicant may appeal to the circuit court. If the court determines that the denial or failure to issue a license was clearly erroneous, the court must order the board to issue a license as required by the law.

Under the bill, an applicant could appeal to the circuit court if the county clerk issued a notice of statutory disqualification, failed to provide a receipt as required by the bill, or failed to issue a license to carry a concealed pistol as provided in the law; the MSP failed to provide a receipt in compliance with the bill; or the county clerk, MSP, county sheriff, local police agency, or other entity failed to provide a receipt as required in the bill. If the court determined that the notice of statutory disqualification, failure to provide a receipt, or failure to issue a license was clearly erroneous or was arbitrary and capricious, the court would have to order the county clerk to issue a license or receipt as required. For applications submitted after October 1, 2015, if the court determined that the notice or failure was clearly erroneous, the court could order an entity to refund any filing fees that the applicant incurred in filing the appeal, according to the degree of that entity's responsibility.

Currently, if the court determines that the decision of the concealed weapon licensing board to deny issuance of a license to an applicant was arbitrary and capricious, the court must order the State to pay one-third and the county in which the licensing board is located to pay two-thirds of the applicant's actual costs and actual attorney fees in appealing the denial. Under the bill, that would apply for applications submitted before October 1, 2015. For

applications submitted on or after that date, if the court determined that the notice of statutory disqualification, failure to provide a receipt, or failure to issue a license was arbitrary and capricious, the court would have to order the county clerk, the entity taking the fingerprints, or the State to pay the applicant's actual costs and actual attorney fees in appealing the matter, according to the degree of responsibility of the county clerk, the entity taking the fingerprints, or the State.

Under the law, if the court determines that an applicant's appeal was frivolous, it must order the applicant to pay the licensing board's actual costs and actual attorney fees in responding to the appeal. Under the bill, the applicant would have to pay those costs of the county clerk, entity taking the fingerprints, or the State.

#### Concealed Pistol Licensing Fund

The bill would require each county to establish a concealed pistol licensing fund for the deposit of fees collected for the county clerk under the law. The county treasurer would have to direct investment of the fund and credit to it any interest and earnings.

Money credited to the fund would have to be spent in compliance with the Uniform Budgeting and Accounting Act, subject to an appropriation. Fund expenditures could be used by the county clerk only for the cost of administering the law. Allowable expenditures would include any of the following costs of the county clerk:

- Staffing requirements directly attributable to performing functions required under the law.
- Technology upgrades, including technology to take fingerprints by electronic means.
- Office supplies.
- Document storage and retrieval systems and system upgrades.

#### License Expiration & Renewal

A CPL is valid until the applicant's date of birth that falls between four and five years after the license is issued or renewed, as applicable. The bill would require a county clerk to notify the licensee that his or her license was about to expire and could be renewed. The clerk would have to send the notice to the licensee's last known address as shown on the clerk's records. The notification would have to be sent in a sealed envelope by first-class mail at least three months but not more than six months before the expiration date.

An applicant would be eligible for a license renewal if his or her license were not expired, or if it expired within one year before the date of application.

Each applicant who submitted an application for a renewal CPL would have to pay an application and licensing fee of \$115 to the county clerk by any method of payment accepted by that county for payments of other fees and penalties. No other charge, fee, cost, or assessment would be required of the applicant except as specifically authorized in the law. The application and licensing fee would be payable to the county. The county treasurer would have to deposit \$36 of each fee collected for renewal applications in the county's concealed pistol licensing fund. The treasurer would have to forward the balance to the State Treasurer, who would have to deposit it in the General Fund to the credit of the MSP.

Under the law, an application to renew a CPL may be submitted not more than six months before the expiration of the current license. The bill would require the MSP, by October 1, 2018, to provide a system for an applicant to submit his or her renewal application online or by first-class mail. The MSP would have to accept those applications on behalf of the county clerk at no additional charge. Each applicant who submitted a renewal license online or by first-class mail to the MSP would have to pay an application and licensing fee of \$115 by any method of payment it accepted. No other charge, fee, cost, or assessment would be required

of the applicant except as specifically authorized in the law. The application and licensing fee under this provision would be payable to the State. The State Treasurer would have to forward \$36 of each fee to the county treasurer, who would have to deposit it in the county's concealed weapon licensing fund. The State Treasurer would have to deposit the balance of the fee in the General Fund to the credit of the MSP. The MSP would have to notify the county clerk of the county in which the applicant lived of a properly submitted online application or application by first-class mail received by the MSP. If the clerk issued a renewal license, he or she would have to send the license to the licensee by first-class mail in a sealed envelope.

Currently, a licensing board must issue or deny issuance of a renewal license within 60 days after the application is properly submitted. If the board fails to deny or issue the renewal license by that deadline, the expiration date of the current license is extended by 180 days or until the renewal license is issued, whichever comes first. The bill would require the MSP to complete the required verification and the county clerk to issue a renewal license or notice of statutory disqualification within 30 days after the date the renewal application was received. If a person applied for a renewal license before his or her license expired, the expiration date of the current license would be extended until the renewal license or notice of statutory disqualification was issued. The county clerk would have to notify the MSP after he or she received an application for renewal. The MSP would have to immediately enter into LEIN the date the application for renewal was submitted and that the application was pending.

Beginning on the date the MSP established a system for online or first-class mail renewal application, it would have to provide an applicant a digital receipt, or a receipt by first-class mail if requested, for his or her renewal application submitted online. Beginning on that date, the MSP also would have to mail an applicant a receipt by first-class mail for his or her renewal application submitted by first-class mail at the time the MSP received the application. In addition to currently required information, the receipt would have to include the applicant's State-issued driver license or personal ID card number.

The law waives the pistol training requirements for an applicant for renewal, but requires the applicant to certify that he or she has completed at least three hours' review of the required training and has had at least one hour of firing range time within six months before applying. Under the bill, these requirements would be met if the applicant certified on the renewal application form that he or she had complied with them. An applicant would not be required to verify the statements made or to obtain a certificate or undergo training other than as required.

#### Renewal by Member of the Armed Forces

Under the bill, until October 1, 2018, a member of the United States Armed Forces, the U.S. Armed Forces Reserve, or the Michigan National Guard who was on orders to a duty station outside the State could submit his or her application to renew a CPL by first-class mail, containing the required fee, a notarized application, the licensee's address of record within the State, and his or her orders to report to a duty station outside the State. If the licensee wanted to have his or her application receipt, renewal license, or any other notices mailed to his or her address of assignment or deployment, the licensee also could submit a letter requesting that action.

If the concealed weapon licensing board approved or a county clerk issued a renewal license, the county clerk would have to send the license to the applicant by first-class mail in a sealed envelope. The clerk also would have to send a receipt to the licensee by first-class mail.

#### No-Carry Zones

Under the law, an individual who is licensed to carry a concealed pistol, or who is exempt from licensure, may not carry a concealed pistol or taser on certain premises, commonly

referred to as "no-carry zones". That restriction does not apply to certain people, including a CPL holder who is a retired police officer or retired law enforcement officer. The bill would delete a provision under which the concealed weapon licensing board may require a letter from the law enforcement agency stating that the retired officer retired in good standing.

The no-carry zone restriction also does not apply to a State court judge or State court retired judge who holds a CPL. The bill would delete a provision under which the concealed weapon licensing board may require a State court retired judge to obtain and carry a letter from the Judicial Tenure Commission stating that he or she is in good standing in order to qualify for the no-carry zone exemption.

### MSP Database & Annual Report

Database. The law requires the MSP to create and maintain a computerized database of individuals who apply for a CPL and specifies the information that must be included in the database. The bill also would require the database to include the following:

- The individual's State-issued driver license and personal ID card number.
- If the individual was issued a notice of statutory disqualification and the reasons for it.
- The status of the individual's application or license.

The status of the person's application or license also would have to be entered into LEIN.

The law requires the MSP to delete from the database the previous reasons for the denial of a CPL, if an individual who was denied a license subsequently is issued a CPL. The bill also would require the MSP to delete the previous reason for a notice of statutory disqualification if a person who was issued a notice were subsequently issued a CPL.

Annual Report. The law requires the MSP to file with the Secretary of the Senate and the Clerk of the House of Representatives, and post on the MSP website, an annual report setting forth specific information for each county licensing board. The bill would require the report to be filed and posted by January 1 of each year and to contain specific information for the State for the previous fiscal year.

The information that the report must contain includes the number of concealed pistol licenses denied and the categories for denial. The bill instead would require the number of statutorily disqualified applicants and categories for statutory disqualification. The report also must include the number of CPLs revoked and categories for revocation. Under the bill, the report also would have to include the number of CPLs suspended and categories for suspension.

In addition, the report must include the number of charges of State civil infractions of the handgun licensure law or charges of criminal violations filed against licensed individuals that resulted in a finding of responsibility or a criminal conviction. The report must indicate the number of crimes in each category of criminal offense that involved the brandishing or use of a pistol, the number that involved the carrying of a pistol by the CPL holder during the commission of the crime, and the number in which no pistol was carried by the CPL holder during the commission of the crime. The bill would delete those provisions.

The bill also would delete requirements that the report include the following:

- The number of pending criminal charges, categorized by offense, against individual licensed to carry a concealed pistol
- The number of criminal cases dismissed, categorized by offense, against individual licensed to carry a concealed pistol.

- The number of cases filed against individuals licensed to carry a concealed pistol for criminal violations that resulted in a finding of not responsible or not guilty, categorized by offense.

Under the bill, the report would have to include the following:

- The total number of individuals license to carry a concealed pistol found responsible for a civil violation of the handgun licensure law, the total number of civil violations of the law 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.
- The total amount of revenue the MSP received under the law.
- Actual costs incurred per initial and renewal license by the MSP, itemized by each statutory section of the law.
- A list of expenditures made by the MSP from money received under the law, regardless of purpose.

### Pistol Training & Safety Program

In order to receive a CPL, an applicant must have had training in the safe use and handling of a pistol by the successful completion of a pistol safety training class that meets the law's requirements.

A pistol training and safety program meets the law's requirements only if it consists of at least eight hours of instruction and all of the following conditions are met:

- The program is certified by the State or a national or state firearms training organization and provides five hours of instruction in specific topics.
- The program provides at least three hours of instruction on a firing range and requires firing at least 30 rounds of ammunition.
- The program provides a certificate of completion that states that the program complies with the law's requirements and that the individual successfully completed the course, and that contains the printed name and signature of the course instructor.
- The instructor was certified by the state or a national organization to teach the courses.

The bill would require the training to have been provided within five years before the date of the CPL application. For certificates issued on or after October 1, 2015, all of the following information also would have to be printed on the face of each certificate or attached to it in a separate document:

- The instructor's name and telephone number.
- The name and telephone number of the State agency or state or national firearms training organization that certified the individual as an instructor, his or her instructor certification number, if any, and the expiration date of the certification.

The bill would prohibit the county clerk from requiring any other certification or requiring an instructor to register with the county or the clerk.

A training certificate that did not meet the requirements under State law applicable at the time the certification was issued could otherwise meet the requirements described above if the applicant provided information that reasonably demonstrated that the certificate or the training met the applicable requirements.

### Carrying Under the Influence

The law prohibits an individual from carrying a concealed pistol or a taser while he or she is under the influence of alcoholic liquor or a controlled substance, or while he or she has a prohibited bodily alcohol content (BAC). The bill specifies that "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.

The law specifies that acceptance of a CPL constitutes implied consent to submit to a chemical analysis. If the person refuses to take a chemical test, the peace officer must promptly report the refusal in writing to the concealed weapon licensing board that issued the person's CPL. Under the bill, a person who refused to take a chemical test would be responsible for a State civil infraction and would have to be fined \$100. A peace officer would have to promptly report the refusal in writing to the MSP, which would have to notify the county clerk who issued the license. The clerk would have to suspend the license for six months. The MSP would have to immediately enter the suspension into LEIN.

Currently, if a person was under the influence of alcoholic liquor and/or a controlled substance or had a BAC of .10 or more gram per 100 milliliters of blood, 210 liters of breath, or 67 milliliters of urine, he or she is guilty of a misdemeanor punishable by up to 93 days' imprisonment and/or a maximum fine of \$100. The court must order the concealed weapon licensing board that issued the CPL to permanently revoke the license, and the licensing board must do so. Under the bill, the court would have to order the county clerk who issued the license to revoke it. The clerk would have to notify the MSP of the revocation and the MSP would have to immediately enter it into LEIN.

If a person had a BAC of .08 or more but less than .10, he or she is guilty of a misdemeanor punishable by up to 93 days' imprisonment and/or a maximum fine of \$100. The court may order the licensing board to revoke the license for up to three years. The bill would require the court to order the county clerk to suspend the license for up to three years. The county clerk would have to notify the MSP of the suspension and the MSP would have to immediately enter it into LEIN.

If a person had a BAC of .02 or more but less than .08, he or she is responsible for a State civil infraction and may be fined not more than \$100. The bill would require a fine of \$100. The court may order the licensing board to revoke the license for one year. The bill would require the peace officer to notify the MSP of a civil infraction, and the MSP would have to notify the county clerk who issued the license. The clerk would have to suspend the license for one year. The MSP would have to immediately enter the suspension into LEIN.

#### Restoration of Rights

Under the law, a person who is prohibited from possessing, using, transporting, selling, purchasing, carrying, shipping, receiving, or distributing a firearm may apply to the concealed weapons licensing board in the county in which he or she lives for restoration of those rights. Not more than one application may be submitted in any calendar year. The board may charge a fee of up to \$10 for the actual and necessary expenses of each application.

The bill would allow the person instead to apply to the circuit court in the county in which he or she lived. The court would have to charge a fee as provided in the Revised Judicature Act, unless the court waived the fee.

#### Repealed Provisions

The bill would repeal Section 5m, which requires a prosecuting attorney to promptly notify the county concealed weapon licensing board that issued a CPL of a criminal charge against a license holder for a felony or specified criminal offense. If a CPL holder is convicted of a

crime, the prosecuting attorney's notification must indicate if the crime involved the brandishing or use of a pistol, if a pistol was carried by the licensee during the commission of the crime, or if no pistol was carried. The MSP must provide a form for reporting purposes. Each year, the chair of the county licensing board must compile and provide a report to the MSP containing the information provided to the board under Section 5m and other provisions of the law.

The bill also would repeal Section 6a, which allows a concealed weapon licensing board to issue to any bank, trust company, armored car company, railway company, express company, or other company, institution, copartnership, or individual in possession of large sums of money or other valuables, a license authorizing the licensee to equip its premises or vehicles with gas ejecting devices to be used solely to protect those premises or vehicles, and the people or property in them, from criminal assaults.

MCL 28.421 et al. (S.B. 34)  
777.11b (S.B. 35)

Legislative Analyst: Patrick Affholter

## **FISCAL IMPACT**

### **Senate Bill 34**

The bill would transfer the responsibilities of existing county concealed weapon licensing boards to county clerks and the MSP, resulting in costs for both entities. Currently, a county clerk's responsibility under the handgun licensure law is only to serve as clerk to the concealed weapon licensing board in the county, but under the bill the clerk would assume all the duties, functions, and responsibilities of the board--with the exception of investigative responsibility--including the authority to issue to an applicant a license to carry a concealed pistol and the requirement to maintain all the concealed weapon license applications and official documents. This new responsibility could result in significant additional work load (and cost) for county clerk offices, depending upon the concealed weapon licensing activity of a county. Additional proposed responsibilities, including notification of license holders of pending license expirations and a requirement for swifter action on license renewals, would contribute to the additional costs to counties, though to a degree that cannot be determined at this time.

Under the bill, the MSP would be responsible for verifying whether a CPL applicant was statutorily eligible for licensure. The MSP estimates that this evaluation, performed by its Criminal Justice Information Center, would require 13.0 FTEs and \$1,450,000 in annual funding not including the fixed costs of necessary data-based information systems. This function would replace the duty under current law of investigating the background of each applicant by the 249 members of county concealed weapon licensing boards throughout the State. The cost of the MSP's current responsibilities is approximately the same as the estimated cost under the bill. The MSP estimates the average number of CPL application renewals submitted annually in recent years is 112,000. This number rose to 136,767 in 2013, but predicting how many are expected in future years is difficult. In addition, the bill would require the MSP to provide a system of CPL license renewal online or by mail by October 1, 2018; the cost of this responsibility cannot be determined at this time.

On the revenue side, the bill would continue the CPL application fee of \$105 until October 1, 2015, with \$15 of that amount going to county sheriffs, \$26 to a county's CPL fund, and \$64 to the MSP. After October 1, 2015, a new application fee of \$100 would be established, with \$26 going to a county's CPL fund and \$74 to the MSP. License renewal applications would cost \$115, with \$36 of that fee going to a county's CPL fund and \$79 to the MSP. With \$46.50 of each application fee directed to the MSP being the actual cost of fingerprint check analysis, the MSP is unsure at this time whether its portion of the fees would cover all of its true costs under the proposed CPL licensing program. At the same time, it is not known whether the

revenue credited to a local concealed pistol licensing fund would be sufficient to cover the duties of county clerks as assigned under the bill.

**Senate Bill 35**

The bill would have no fiscal impact on State or local government.

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.