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BILL ANALYSIS



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Senate Bills 34 and 35 (as enacted)
Sponsor: Senator Mike Green
Senate Committee: Judiciary
House Committee: Judiciary

PUBLIC ACTS 3 & 4 of 2015

Date Completed: 3-31-17

CONTENT**Senate Bill 34 amended the handgun licensure law to do the following:**

- Eliminate county concealed weapon licensing boards beginning December 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 to 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 December 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 is not issued within 45 days after the fingerprinting receipt is issued, the receipt temporarily serves 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 is 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 has obtained a domestic violence or stalking personal protection order (PPO) or if the county sheriff determines the applicant or a household or family member is endangered by the applicant's inability to immediately obtain a CPL.
- Require an application and licensing fee of \$115 for the renewal of a CPL, and otherwise revise renewal procedures.
- Require the MSP to establish, by December 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 is stationed outside the State to apply to renew his or her CPL by mail, until November 30, 2018.
- Require the county clerk to notify a licensee before his or her CPL expires.

- **Revise procedures and the basis for suspension or revocation of a CPL.**
- **Allow a person to 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.**
- **Revise information that must be included in a database maintained, and an annual report to the Legislature submitted, by the MSP.**

The bill also repealed sections of the law that did the following:

- **Required a prosecuting attorney to notify the appropriate licensing board of a criminal charge against, or conviction of, a CPL holder.**
- **Allowed 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 amended the Code of Criminal Procedure to revise citations to provisions of the handgun licensure law, reflecting changes enacted by Senate Bill 34.

As amended or added by Senate Bill 34, Sections 5b, 5l, and 5x of the handgun licensure law (which, respectively, include revised CPL application requirements, include revised CPL renewal requirements, and require each county to establish a concealed pistol licensing fund) took effect on June 2, 2015. The rest of the bill took effect on December 1, 2015.

Senate Bill 35 took effect on October 1, 2015.

A detailed description of Senate Bill 34 follows.

Transfer of Licensing Board Authority

The handgun licensure law previously required 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. To obtain a CPL, an individual was required to apply to the concealed weapon licensing board in the county in which he or she lived. The bill deleted those provisions.

Beginning December 1, 2015, the bill eliminated the county concealed weapon licensing boards. Each county licensing board was required to transfer all license applications and official documents in its possession to the clerk of the county in which the board was located by November 30, 2015. All pending applications remained in place and were considered to have an application date of December 1, 2015. The county clerk was required to process those applications as provided in the law. The clerk was prohibited from charging 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 December 1, 2015, remains or remained in effect until its expiration or as otherwise provided by law.

The bill specifies that the county clerk is 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. The bill deleted provisions under which a concealed weapon licensing board had exclusive authority to issue, deny, revoke, or suspend a CPL; was authorized to investigate an applicant for licensure; and could require the applicant to appear before it at a mutually agreed-upon time for a conference.

The bill also deleted requirements that the county sheriff, on behalf of the concealed weapon licensing board, verify certain requirements through LEIN and report his or her findings to the concealed weapon licensing board.

The bill requires the MSP to verify whether an applicant is eligible to receive a CPL.

The MSP must verify the requirements through LEIN and the National Instant Criminal Background Check System and report to the county clerk any statutory disqualifications that apply to an applicant.

Application Process & Required Information. To obtain a CPL, an individual previously had to apply to the concealed weapon licensing board in the county in which he or she lived. Under the bill, this applied until November 30, 2015. Beginning December 1, 2015, an individual must apply to the county clerk in the county in which he or she lives. Previously, an application had to allow the applicant to designate whether he or she sought a temporary license. Under the bill, that applied until November 30, 2015. Beginning December 1, 2015, the application must allow the applicant to designate whether he or she seeks an emergency license.

The bill specifies that, beginning December 1, 2015, not more than one application may be submitted in any calendar year. An application will not be considered complete until the applicant submits all of the required information and fees and has fingerprints taken. An application will be considered withdrawn if the applicant does not have fingerprints taken within 45 days of the date the application was filed. A completed application expires one year from the date of the application.

The bill requires the county clerk to issue an applicant a receipt for his or her application at the time it is submitted. The receipt must 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 is issued.
- The amount paid.
- The name of the county in which the receipt is 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 requires an application to include the applicant's State-issued driver license or personal ID card number.

Previously, the application also had to include the name of the local police department, if the applicant lived in a city, village, or township with a police department, and had to include the names, addresses, and telephone numbers of two individuals who are references for the applicant. Under the bill, those requirements applied only until November 30, 2015.

The law previously required an application to include a passport-quality photograph provided by the applicant. Under the bill, an application must include such a photograph only if the applicant does not have a digitized photograph on file with the Secretary of State. The bill requires 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 must give the photograph of an applicant received from the Secretary of State to the county clerk. The clerk must use it on the individual's CPL unless the applicant does not have a digitized photograph on file with the Secretary of State, in which case he or she must provide a passport-quality photograph.

The county clerk may 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 prescribed a nonrefundable application and licensing fee of \$105, payable to the county. Under the bill, that fee applied until November 30, 2015. Beginning December 1, 2015, each applicant is required 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 is required of the applicant.

Previously, the county treasurer was required deposit \$41 of each fee in the county general fund, crediting \$26 to the county clerk and \$15 to the county sheriff. Under the bill, until November 30, 2015, the county treasurer had 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 December 1, 2015, the county treasurer must deposit \$26 of each application and licensing fee in the county's concealed pistol licensing fund. As previously required, the county treasurer must 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 required the county sheriff to verify that an applicant met the law's requirements for a license through LEIN and report his or her findings to the board. Under the bill, beginning December 1, 2015, the MSP must conduct that verification and report to the county clerk all statutory disqualifications that applied to an applicant.

Previously, if the applicant lived in a city, village, or township with a police department, the licensing board was required to contact that police department to determine whether it had any information relevant to the investigation of the applicant's eligibility for a CPL. Under the bill, that requirement applied until November 30, 2015.

Fingerprinting. Under the law, after submitting an application and paying the required fee, an individual must request and have classifiable fingerprints taken. Previously, fingerprints had to be taken by the county sheriff or a local police agency. Under the bill, the applicant must 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. A person who has classifiable fingerprints taken under an application for an emergency license does not have to have additional fingerprints taken.

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

The law requires the entity taking the fingerprints to take them within five business days after the request. The bill also requires the entity to provide reasonable access to fingerprinting services during normal business hours as necessary to comply with the fingerprinting requirements.

In addition, the bill requires an entity providing fingerprinting services to issue the applicant a receipt at the time his or her fingerprints are taken. The county clerk, MSP, county sheriff, local police agency, or other entity may not provide a receipt unless the applicant provides a receipt of his or her application for a CPL. A receipt for fingerprint services must include all of the following:

- The applicant's name.
- The date and time the receipt is 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 must include information that, if a license or notice of statutory disqualification is not issued within 45 days after the date the fingerprinting receipt was issued, the receipt serves as a CPL when carried with an official State-issued driver license or personal ID card; that the receipt is valid as a CPL until the county clerk issues a license or notice of statutory disqualification; and that the receipt does 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. Previously, within 10 days after receiving a report of the fingerprints from the FBI, the MSP had to give a copy to the submitting agency and the appropriate clerk. The bill instead requires the MSP, beginning December 1, 2015, to send the county clerk a list of an applicant's statutory disqualifications within five business days of completing the required verification.

Previously, except as otherwise provided, the concealed weapon licensing board could not issue a CPL until it received the fingerprint comparison, and could deny a license if a person's fingerprints were not classifiable by the FBI. Under the bill, beginning December 1, 2015, the county clerk may not issue a CPL until he or she receives the report of statutory disqualifications. If an individual's fingerprints are not classifiable, the MSP must take the person's fingerprints again, at no charge, or provide for the comparisons to be conducted through alternative means. The county clerk may not issue a notice of statutory disqualification because an individual's fingerprints are not classifiable by the FBI.

Issuance of License or Notice of Disqualification. Previously, the licensing board had to issue or deny a license within 45 days after receiving the fingerprint comparison report. Under the bill, beginning December 1, 2015, the MSP must complete its required verification of an applicant's qualifications and the county clerk must issue a license or a notice of statutory disqualification within 45 days after the date the applicant has classifiable fingerprints taken. The county clerk must include an indication on the license if an individual is exempt from the prohibitions against carrying a concealed pistol on certain premises, if the applicant provides acceptable proof that he or she qualifies for that exemption.

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

Previously, if the licensing board denied issuance of a CPL, it had to take certain actions within five business days to inform the applicant. Under the bill, this applies to a county clerk who issues a notice of statutory disqualification. The bill requires the notice 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 must inform the applicant that he or she should contact the source of the record to correct any errors in it resulting in the statutory disqualification.

Temporary License/Emergency License. Previously, if the concealed weapon licensing board did not receive the fingerprint comparison report within 60 days after it was forwarded to the MSP, the board had to issue a temporary license to an applicant who was otherwise qualified for a license. A temporary license was valid for 180 days or until the licensing board received the fingerprint comparison report and issued or denied a license. An applicant who received a temporary license had to surrender it to the licensing board when a regular license was issued or denied. Under the bill, the provisions for a temporary license applied until November 30, 2015.

Beginning December 1, 2015, if a license or notice of statutory disqualification is not issued within 45 days after the date the applicant has classifiable fingerprints taken, the receipt for fingerprinting services serves as a CPL when carried with a State-issued driver license or personal ID card and is valid until the county clerk issues a license or notice of disqualification.

Previously, if a concealed weapon licensing board determined that there was probable cause to believe that the safety of a CPL applicant or the safety of a member of his or her family was endangered by the applicant's inability to immediately obtain a CPL, the licensing board could issue an unrestricted temporary license. The temporary license was valid for up to 180 days and could be renewed for one additional period of up to 180 days.

The bill instead requires a county clerk to issue an emergency license to carry a concealed pistol to an applicant who has obtained a PPO in a domestic violence or stalking situation, or to an applicant if the county sheriff determined that there is 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 is endangered by the applicant's inability to immediately obtain a CPL. Clear and convincing evidence includes, but is not 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 his or her family or household. A county clerk may issue an emergency license to an applicant who has obtained a PPO only if the person is eligible to receive a license based on a criminal record check conducted by the MSP through LEIN.

The county sheriff may issue a determination under these provisions only to an individual who is otherwise eligible to receive a CPL based on a criminal record check through LEIN and only after the sheriff has taken the applicant's fingerprints. A county sheriff who makes a determination under this provision, performs a criminal record check, and takes the applicant's fingerprints may charge a fee of up to \$15.

The law requires a CPL applicant to be a legal resident of the State and to have been a legal resident for at least six months before applying. Previously, a concealed weapon licensing board could waive the six-month residency requirement for a temporary license if it determined that there was probable cause to believe that the safety of the applicant or a member of his or her family was endangered by the applicant's inability to immediately obtain a CPL. If the applicant held a valid CPL issued by another state at the time his or her residency in Michigan was established, the licensing board could waive the six-month waiting period and the applicant could apply for a concealed pistol license at the time his or her Michigan residency was established. The licensing board had to issue a temporary license to the applicant immediately, and the temporary license was valid until the board decided whether

to grant or deny the application. Under the bill, those provisions applied until November 30, 2015.

Beginning December 1, 2015, the county clerk must waive the six-month residency requirement for an emergency license if the applicant is a petitioner for a PPO or if the county sheriff determines that there is clear and convincing evidence to believe that the safety of the applicant or a member of his or her family or household is endangered by the applicant's inability to immediately obtain a CPL. If the applicant holds a valid CPL issued by another state at the time his or her residency in Michigan is established, the county clerk must waive the six-month waiting period and the applicant may apply for a CPL at the time his or her Michigan residency is established.

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

A county clerk may charge a fee not to exceed \$10 for printing an emergency license. The clerk must 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 requires 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 must be fined \$100. Previously, the person could be fined up to \$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. Previously, the person could be fined up to \$500 or his or her CPL could be suspended for up to six months. For a subsequent offense within three years of a prior offense, the person could be fined up to \$1,000 and his or her CPL could be revoked. Under the bill, those fines and suspension or revocation are mandatory.

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

Suspension or Revocation. Previously, a concealed weapon licensing board that issued a CPL to an individual could revoke that license if it determined 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 determined that the individual had been found responsible for three or more State civil infraction violations of the law during the license period, the board was required to conduct a hearing and could suspend the person's CPL for up to one year. The bill provides instead that

a county clerk who issues a license to a person to carry a concealed pistol must suspend, revoke, or reinstate a license if ordered by a court or if the county clerk is notified of a change in the licensee's eligibility to carry a concealed pistol.

Under the bill, except as otherwise provided, a license may 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. Previously, a license could not be revoked except upon written complaint and an opportunity for a hearing before the licensing board.

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

The law previously required the licensing board to send notice of the suspension to the licensee's last known address. The notice had to inform the person that he or she was entitled to a prompt hearing on the suspension, and the licensing board had to conduct a prompt hearing if requested in writing. Under the bill, the court must notify the county clerk of each statutory provision with which the person has been charged. The county clerk must send notice of the suspension to the individual by first-class mail in a sealed envelope. The notice must 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 expires, correcting errors in the record, or appealing the suspension.

If the court orders a license suspended and the person is acquitted of the charge or the charge is dismissed, the court must notify the county clerk, who must automatically reinstate the license if it has not expired and the person otherwise is qualified to receive a CPL, as verified by the MSP. A clerk may not charge a fee for the reinstatement.

Previously, the licensing board that issued a CPL was required to revoke that license if it determined that the individual was not eligible to receive a license to carry a concealed pistol. The bill instead requires the MSP to notify the county clerk of the county in which a license was issued if it determines that there has been a change in a licensee's eligibility to receive the license. The county clerk must 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 must 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 must immediately enter the suspension, revocation, or reinstatement into LEIN.

The bill requires 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 must state the date the suspension will end, if applicable. The licensee must promptly surrender his or her license to the county clerk after being notified that it has been revoked or suspended. Failure to surrender a suspended or revoked license is a misdemeanor punishable by up to 93 days' imprisonment and/or a maximum fine of \$500.

Except as otherwise provided, if a license is suspended and surrendered, the applicant may apply for a renewal license when the suspension period expires. The county clerk or MSP, as applicable, must issue the applicant a receipt for his or her application at the time it is submitted.

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

Previously, if the concealed weapon licensing board determined by clear and convincing evidence based on specific articulable facts that an applicant posed a danger to himself or herself or to any other person, the board had to immediately suspend the person's CPL pending a revocation hearing. The board had to 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 deleted those provisions.

Delivery of License. The bill requires 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 must issue a replacement license in person at the time of application unless the applicant requests 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 requires the county clerk to deposit a replacement fee in the county's concealed pistol licensing fund.

Voluntary Surrender of License. The bill allows a person licensed to carry a concealed pistol to voluntarily surrender the CPL without explanation. A county clerk must retain a surrendered license as an official record for one year after the license is surrendered. If a licensee voluntarily surrenders a CPL, the county clerk must notify the MSP, which then must 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, or the MSP is not liable for civil damages as a result of the issuance of a license under the law to a person who later commits a crime or negligent act.

License Specifications. The bill requires a CPL to be constructed of plastic laminated paper or hard plastic. No additional fee may be charged for the license unless otherwise prescribed under the law. A fee of up to \$10 may be charged for an optional hard plastic license, but only if the county clerk also provides the option of obtaining a plastic laminated paper license at no charge. A county clerk must 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 must 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 is an emergency license.

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

Appeal of License Denial/Issuance Failure. Previously, if the licensing board denied a license or failed to issue one as provided, the applicant could appeal to the circuit court. If the court determined that the denial or failure to issue a license was clearly erroneous, the court was required to order the board to issue a license as required by the law.

Under the bill, an applicant may appeal to the circuit court if the county clerk issues a notice of statutory disqualification, fails to provide a receipt as required by the bill, or fails to issue a license to carry a concealed pistol as provided in the law; the MSP fails to provide a receipt in compliance with the bill; or the county clerk, MSP, county sheriff, local police agency, or other entity fails to provide a receipt as required by the bill. If the court determines 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 must order the county clerk to issue a license or receipt as required. If the court determines that the notice or failure was clearly erroneous, the court may 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.

Previously, if the court determined that the decision of the concealed weapon licensing board to deny a license to an applicant was arbitrary and capricious, the court had to 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, if the court determines that the notice of statutory disqualification, failure to provide a receipt, or failure to issue a license was arbitrary and capricious, the court must 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 bill, if the court determines that an applicant's appeal was frivolous, it must order the applicant to pay the actual costs and actual attorney fees of the county clerk, the entity taking the fingerprints, or the State in responding to the appeal. Previously, those costs and fees had to be paid to the licensing board.

Concealed Pistol Licensing Fund

The bill requires 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 must direct investment of the fund and credit to it any interest and earnings.

Money credited to the fund must be spent in compliance with the Uniform Budgeting and Accounting Act, subject to an appropriation. The county may use expenditures from the fund only for the cost of administering the law. Allowable expenditures 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 requires a county clerk to notify the licensee that his or her license is about to expire and may be renewed. The clerk must send

the notice to the licensee's last known address as shown on the clerk's records. The notification must 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 is eligible for a license renewal if his or her license is not expired, or if it expired within one year before the date of application.

Each applicant who submits an application for a renewal CPL must 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 is required of the applicant except as specifically authorized in the law. The application and licensing fee is payable to the county. The county treasurer must deposit \$36 of each fee collected for renewal applications in the county's concealed pistol licensing fund. The treasurer must forward the balance to the State Treasurer, who then must deposit it in the General Fund to the credit of the MSP.

Under the law, an application to renew a CPL may be submitted within six months before the current license expires. The bill requires the MSP, by December 1, 2018, to provide a system for an applicant to submit his or her renewal application online or by first-class mail. The MSP must accept those applications on behalf of the county clerk at no additional charge. Each applicant who submits a renewal license online or by first-class mail to the MSP must pay an application and licensing fee of \$115 by any method of payment it accepts. No other charge, fee, cost, or assessment is required of the applicant except as specifically authorized in the law. The application and licensing fee under this provision is payable to the State. The State Treasurer must forward \$36 of each fee to the county treasurer, who then must deposit it in the county's concealed weapon licensing fund. The State Treasurer must deposit the balance of the fee in the General Fund to the credit of the MSP. The MSP must notify the clerk of the county in which the applicant lives of a properly submitted online application or application by first-class mail received by the MSP. If the clerk issues a renewal license, he or she must send the license to the licensee by first-class mail in a sealed envelope.

Previously, a licensing board was required to issue or deny a renewal license within 60 days after the application was properly submitted. If the board failed to do so, the expiration date of the license was extended by 180 days or until the renewal license was issued, whichever came first. The bill requires 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 is received. If a person applies for a renewal license before his or her license expires, the expiration date of the current license will be extended until the renewal license or notice of statutory disqualification is issued. The county clerk must notify the MSP after he or she receives a renewal application. The MSP must immediately enter into LEIN the date the application was submitted and that it is pending.

Beginning on the date the MSP establishes a system for online or first-class mail renewal application, it must give an applicant a digital receipt, or a receipt by first-class mail if requested, for his or her renewal application submitted online. The MSP also must 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 receives the application. In addition to other required information, the receipt must 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 will be met if the applicant certifies on the renewal

application form that he or she has complied with them. An applicant is not 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 November 30, 2018, a member of the United States Armed Forces, the U.S. Armed Forces Reserve, or the Michigan National Guard who is on orders to a duty station outside the State may 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 wants 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 may submit a letter requesting that action.

If the concealed weapon licensing board approves or a county clerk issues a renewal license, the county clerk must send the license to the applicant by first-class mail in a sealed envelope. The clerk also must 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 deleted a provision under which the concealed weapon licensing board could 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 deleted a provision under which the concealed weapon licensing board could require a State court retired judge to obtain and carry a letter from the Judicial Tenure Commission stating that he or she was 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 requires the database to include the following:

- The individual's State-issued driver license or personal ID card number.
- Whether 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 must 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 requires the MSP to delete the previous reason for a notice of statutory disqualification if a person who was issued a notice is 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. The bill requires 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, rather than for each county licensing board.

The information that the report must contain previously included the number of concealed pistol licenses denied and the categories for denial. The bill instead requires 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, and, under the bill, the number of CPLs suspended and categories for suspension.

In addition, the report previously had to 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 had to 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 deleted those provisions.

The bill also deleted 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 must 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 has 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 conditions listed in the law are met. Among other things, a program must provide 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.

Under the bill, all of the following information also must 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 requires the training to have been provided within five years before the date of the CPL application.

The county clerk may not require any other certification or require an instructor to register with the county or the clerk.

A training certificate that does not meet the requirements under State law applicable at the time the certification was issued may otherwise meet the requirements described above if the applicant provides information that reasonably demonstrates that the certificate or the training meets 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" means 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. Previously, if a person refused to take a chemical test, the peace officer was required to promptly report the refusal in writing to the concealed weapon licensing board that issued the person's CPL. Under the bill, a person who refuses to take a chemical test is responsible for a State civil infraction and must be fined \$100. A peace officer must promptly report the refusal in writing to the MSP, which then must notify the clerk of the county in which the license was issued. The clerk must suspend the license for six months.

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. Previously, the court had to order the concealed weapon licensing board that issued the CPL to permanently revoke the license, and the licensing board was required to do so. Under the bill, the court must order the clerk of the county in which the license was issued to revoke it. The clerk must notify the MSP of the revocation.

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 fine of \$100. Previously, the court had to order the licensing board to revoke the license for up to three years. The bill requires the court to order the clerk of the county in which the license was issued to suspend the license for up to three years. The county clerk must notify the MSP of the suspension.

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 must be fined \$100. Previously, the person could be fined up to \$100, and the court could order the licensing board to revoke the license for one year. The bill requires the peace officer to notify the MSP of the civil infraction, and requires the MSP to notify the clerk of the county in which the license was issued. The clerk must suspend the license for one year.

In each case, the MSP must immediately enter the suspension or revocation 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 for restoration of those rights. Not more than one application may be submitted in any calendar year. Previously, an applicant had to apply to the concealed weapons licensing board in the county in which he or she lived. The board was authorized to charge a fee of up to \$10 for the actual and necessary expenses of each application.

The bill allows the person instead to apply to the circuit court in the county in which he or she lives. The court must charge a fee as provided in the Revised Judicature Act, unless the court waives the fee.

Repealed Provisions

The bill repealed Section 5m, which required 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 was convicted of a crime, the prosecuting attorney's notification was required to 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. Each year, the chair of the county licensing board was required to report to the MSP the information provided to the board under Section 5m and other provisions of the law.

The bill also repealed Section 6a, which allowed 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 transferred the responsibilities of county concealed weapon licensing boards to county clerks and the MSP, resulting in costs for both entities. Previously, a county clerk's responsibility under the handgun licensure law was only to serve as clerk to the concealed weapon licensing board in the county, but under the bill the clerk must 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 may result in significant additional work load (and cost) for county clerk offices, depending upon the concealed weapon licensing activity of a county. Additional new responsibilities, including notification of license holders of pending license expirations and a requirement for swifter action on license renewals, will contribute to the additional costs to counties, to an unknown degree.

Under the bill, the MSP is responsible for verifying whether a CPL applicant is statutorily eligible for licensure. The MSP estimated 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 replaces the duty under former 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 previous responsibilities was approximately the same as the estimated cost under the bill. Predicting the number of CPL applications received in a given fiscal year can be difficult. For fiscal year 2014-15, there were 121,682 received; for fiscal year 2015-16, the number was 179,940. In addition, the bill requires the MSP to provide a system of CPL license renewal online or by mail by October 1, 2018; the cost of this responsibility is unknown.

On the revenue side, the bill continued 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 is required, with \$26 going to a county's CPL fund and \$74 to the MSP. License renewal applications now 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 was unsure whether its portion of the fees would cover all of its true costs under the new CPL licensing program. At the same time, it is not known whether the revenue credited to a local concealed pistol licensing fund is sufficient to cover the duties of county clerks as assigned under the bill.

Senate Bill 35

The bill has 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.