

Senate Fiscal Agency
P. O. Box 30036
Lansing, Michigan 48909-7536

SFA



BILL ANALYSIS

Telephone: (517) 373-5888
Fax: (517) 373-7986
TDD: (517) 373-0543

Senate Bill 460 (Substitute S-9 as passed by the Senate)
Senate Bill 461 (as passed by the Senate)
House Bill 4530 (Substitute S-1 as passed by the Senate)
House Bill 4532 (Substitute S-1 as reported)
House Bill 4534 (as reported with amendment)
House Bill 4543 (Substitute S-2 as reported)
House Bill 4544 (Substitute H-1 as reported without amendment)
Sponsor: Senator Dave Jaye (S.B. 460 & 461)
Representative Michael Green (H.B. 4530)
Representative Steve Vear (H.B. 4532)
Representative Michael Kowall (H.B. 4534)
Representative Raymond Basham (H.B. 4543)
Representative Jim Howell (H.B. 4544)

Senate Committee: Hunting, Fishing and Forestry
House Committee: Conservation and Outdoor Recreation

Date Completed: 9-23-99

RATIONALE

Under Michigan's handgun licensure Act, a person wishing to carry a concealed pistol must apply to his or her local concealed weapon licensing board. Concealed weapon licensing boards are established at the county level, which means that Michigan has 83 gun boards. Each board includes the prosecuting attorney, the sheriff, and a State Police officer. A license allows the licensee to carry a pistol concealed on his or her person or to carry a pistol, concealed or otherwise, in a vehicle operated or occupied by the licensee.

An applicant for a concealed weapon license must be at least 18 years old, a U.S. citizen, and a State resident for at least six months; must indicate a good reason to fear injury to his or her person or property, or have "other proper reasons"; and must be a "suitable person to be licensed". Further, an applicant must not have been convicted of or confined for a felony within the previous eight years or have a pending felony charge; must not have been adjudged insane or legally incapacitated, or be under an order of involuntary commitment; and must not be the subject of an order entered into the Law Enforcement Information Network (LEIN) under various sections of the law. In addition, an applicant is required to have two sets of fingerprints taken. A license may not be issued unless the concealed weapon licensing board receives a report from the State Police and the FBI that the applicant was not convicted of or confined for a felony within the previous eight-year period.

There is some concern that the current procedure does not provide a consistent and standardized approach to issuance of concealed weapon licenses. Reportedly, some gun boards grant licenses quite liberally, while others are very restrictive, and the law does not require a board to reveal its reasons for denying a license or provide a process for appeal. In addition, some people believe that law-abiding and responsible citizens who meet certain criteria should not have to demonstrate a special need to carry a concealed weapon.

CONTENT

Senate Bill 460 (S-9) would amend the handgun licensure Act to require each county to have one, two, or three concealed weapon licensing boards; revise the membership of the boards; provide for the issuance of a temporary license for up to 180 days; provide that a pistol safety training instructor would be immune from civil liability; create the "Concealed Weapon Enforcement Fund"; prohibit the carrying of a concealed pistol on certain premises; provide for licensing exemptions; require the State's firearm laws to be compiled for distribution to applicants; require a firearm sales record in triplicate; require a law enforcement agency to notify the owner of a lost, stolen, or surrendered firearm; and repeal provisions pertaining to license fees, concealed weapon licensing boards, firearm forfeiture, and renewal fees.

Senate Bill 461 would amend the Age of Majority Act, to provide that the Act would not supersede the age requirements prescribed in the handgun licensure Act and the Michigan Liquor Control Code.

House Bill 4530 (S-1) would amend the handgun licensure Act to establish revised criteria for applying for a license to carry a concealed pistol, including requirements that an applicant be at least 21 years old, a U.S. citizen or legal resident, and not subject to an order of disposition under certain provisions of the Mental Health Code, Code of Criminal Procedure, Michigan Penal Code, and Public Health Code; require a concealed weapon licensing board to issue a license if the requirements were met; set a \$55 application fee and a \$5 assessment fee; require county sheriffs, local law enforcement agencies, and county clerks to provide concealed weapon application kits to individuals wishing to apply for a license; allow the appeal of a license denial or failure to issue a license to the district court; require an applicant to document knowledge or training in the safe use and handling of a pistol; provide that a license would be valid for three years; require the Department of State Police to create and maintain a computerized database of applicants, and report annually to the Legislature; allow certain facilities to prohibit concealed pistols on their premises; and impose penalties for violations pertaining to the carrying of concealed pistols while under the influence of liquor or a controlled substance.

House Bill 4532 (S-1) would amend the Michigan Penal Code to allow a person to carry an antique firearm completely unloaded in a wrapper or container in the trunk of a vehicle; to carry a pistol unloaded in a wrapper or container in the trunk of a vehicle; or to transport an unloaded pistol in a wrapper or container in the trunk of a vehicle or in the passenger compartment in a location that was locked or otherwise inaccessible to the occupant of that vehicle while it was being operated, if the vehicle did not have a trunk, while going to or from his or her home or place of business and a shooting range or other place intended or suitable for use in hunting or target shooting, or other property he or she owned in whole or in part.

House Bill 4534 would amend the Michigan Penal Code to provide that a concealed pistol carried in violation of the Code by a licensed individual would be subject to seizure and forfeiture. An illegally altered pistol, weapon, or device would have to be disposed of in a manner prescribed by the Director of the Department of State Police. A legal pistol, weapon, or device would have to be

forwarded to the Director of the Department of Management and Budget for auction in accordance with law.

House Bill 4543 (S-2) would amend the Michigan Penal Code to prohibit an individual licensed to carry a concealed pistol from carrying a pistol on the premises of a school building, unless authorized by the principal or superintendent; a church, synagogue, mosque, or other place of religious worship, unless authorized by the local church leader; or a day care center, unless authorized by the day care operator. A person who violated this provision would be guilty of a trespass. For a first violation involving a place of religious worship or a day care center, the person would be responsible for a civil infraction fine of up to \$100. For a first violation involving a school building, or a second violation involving a place of religious worship or a day care center, the person would be guilty of a misdemeanor punishable by imprisonment for up to 93 days and/or a fine of up to \$500; in addition, the court would have to order the concealed weapon licensing board that issued the license to suspend it for one year.

House Bill 4544 (H-1) would amend the Michigan Penal Code to increase the maximum length of imprisonment for larceny of a firearm from five to 15 years. In addition, a person who possessed a firearm knowing or having reason to know that it was stolen would be guilty of a felony, punishable by up to 10 years' imprisonment and/or a maximum fine of \$2,500.

House Bills 4532 (S-1), 4534, 4543 (S-2), and 4544 (H-1) and Senate Bill 460 (S-9) are tie-barred to House Bill 4530. House Bill 4530 (S-1) and Senate Bill 461 are tie-barred to Senate Bill 460. All the bills, except Senate Bill 461, would take effect September 30, 1999.

The following is a detailed description of **Senate Bill 460 (S-9)** and **House Bill 4350 (S-1)**.

Senate Bill 460 (S-9)

Legislative Intent

The bill provides: "It is the intent of the legislature to create a standardized system for issuing concealed pistol licenses to prevent criminals and other violent individuals from obtaining a license to carry a concealed pistol, to allow law abiding residents to obtain a license to carry a concealed pistol, and to prescribe the rights and responsibilities of individuals who have obtained a license to carry a concealed pistol. It is also the intent of the legislature to grant an applicant the right to know why his or her application for a concealed pistol license is denied and to create a process by which an applicant may

appeal that denial.”

Concealed Weapon Licensing Board

Each county would have to have at least one but not more than three concealed weapon licensing boards consisting of an individual who was a pistol safety instructor appointed by the county board of commissioners for the term of the board, the county sheriff or his or her designee, and the Director of the State Police or his or her designee. Each board would have to elect one of its members to serve as chairperson of the board. Two members of the board would constitute a quorum. The business of the board would have to be conducted by a majority vote of all of the board members.

Except as otherwise provided in the Act, the board would have exclusive authority to issue or deny issuance of a license to carry a concealed pistol. The board could investigate an applicant only to determine whether he or she was eligible to receive a license. The board could require the applicant to appear before it at a mutually agreed-upon time for a conference. The applicant's failure or refusal to appear without valid reason before the board would be grounds for the board to deny issuance of license to that applicant.

Carrying a Concealed Pistol License

A license to carry a concealed pistol would authorize the licensee to carry a pistol concealed or about his or her person anywhere in the State as provided by law, and to carry a pistol in a vehicle whether concealed or not, anywhere in the State as provided by law.

Temporary License

A board could issue a temporary license to carry a concealed pistol to an applicant if it determined that there was probable cause to believe safety of the applicant or a member of the applicant's family was endangered by the applicant's inability to obtain a license immediately. A temporary license to carry a concealed pistol would have to be on a form provided by the Department of State Police, unrestricted, and valid for up to 180 days. A temporary license could be renewed for one additional period of 180 days.

Pistol-Prohibited Areas

A licensed individual could not carry a concealed pistol on the premises of any of the following:

- A school or school property, except that a parent or legal guardian of a student of the school would not be precluded from carrying a concealed pistol while in a vehicle on school property, if he or she were dropping off or picking up the student from the school.

- A public or private day care center, child caring agency, or child placing agency.
- A sports arena or stadium.
- A dining room, lounge, or bar of a premises licensed under the Michigan Liquor Control Code. (This would not apply to an owner or employee of the premises.)
- Any property or facility owned or operated by a church, synagogue, mosque, temple, or other place of worship, unless the presiding officials of the premises permitted the carrying of a concealed pistol on that property.
- An entertainment facility with a seating capacity of 2,500 or more individuals.

An individual who violated this provision would be responsible for a civil violation and could be fined up to \$500, and the person's license would have to be suspended for six months. A second violation would be a misdemeanor punishable by a fine of up to \$1,000, and the person's license would have to be suspended for one year for a second violation. A third or subsequent violation would be a felony punishable by imprisonment for up to four years and/or a fine of up to \$5,000, and the person's license would have to be revoked.

Licensing Exemptions

The current Act exempts the following from concealed weapon licensing requirements: a police or correctional agency of the U.S., this State, or a local unit of this State; the U.S. Army, Air Force, Navy, or Marine Corps; an organization authorized to purchase or receive weapons; and the National Guard, Armed Forces Reserves, or other duly authorized military organization. The bill also would exempt a member of an exempt organization while engaged in the course of his or her duties with that entity or while going to or returning from those duties. In addition, the bill would exempt a resident of another state who was licensed by another state, if the state issuing the license had license issuing standards that substantially conformed with Michigan's standards, including but not limited to, a requirement that the licensee be not less than 21 years of age.

The current Act also exempts from concealed weapon licensing requirements a person while carrying a pistol unloaded in a wrapper or container in the trunk of his or her vehicle from the place of purchase or repair to his or her home or place of business; or while moving goods from one place of abode or business to another. The bill would include in this exemption a person transporting an unloaded pistol in a locked compartment or container that was separated from the ammunition for that pistol if the vehicle did not have a trunk.

Employer

A public or private employer could not prohibit an employee from applying for or receiving a license, or carrying a concealed pistol in compliance with a license. An employer, however, could prohibit an employee from carrying a concealed pistol in the course of employment with that employer.

In addition, a State department or agency could not prohibit an individual from applying for or receiving a license to carry a concealed pistol, or carrying a concealed pistol in compliance with a license as a condition to obtaining any license or permit.

Concealed Weapon Enforcement Fund

The Concealed Weapon Enforcement Fund would be created in the State Treasury. The State Treasurer could receive money or other assets from any source for deposit into the Fund, would have to direct the Fund's investment, and would have to credit to the Fund interest and earnings from Fund investments. Money in the Fund at the close of the fiscal year would have to remain in the Fund and could not lapse to the General Fund.

The State Police would have to spend money from the Fund only to provide training to licensed law enforcement personnel regarding the rights and responsibilities of individuals licensed to carry concealed pistols and proper enforcement techniques in light of those rights and responsibilities.

Firearm Law Compilation

The Legislative Service Bureau would be required to compile the State's firearms laws, including laws applicable to carrying a concealed pistol, and provide copies to each licensing board for distribution. A board would be required to distribute a copy of the compilation to each individual who applied for a license. The board would have to require the applicant to sign a written statement acknowledging receipt of the compilation. An individual would be ineligible to receive a license until he or she signed the statement.

Firearm Sale

The bill provides that if a licensed individual purchased a pistol, the seller would have to complete a sales record in triplicate on a form provided by the State Police. The record would have to include the individual's concealed weapon license number, and be signed by the individual. The seller would have to retain a copy of the record, provide a copy to the individual, and forward the original form to the State Police within 10 days following the purchase. An individual who made a material false statement on a sales record would be guilty of a felony punishable by up to four years' imprisonment and/or a fine up to \$2,500.

Firearms Recovery

The bill provides that a law enforcement agency that recovered or received a firearm that was lost, stolen, or surrendered by a person other than the owner would have to notify the owner by mail within 30 days after the firearm was recovered or received, if the owner were determinable from the LEIN or other records. The owner would have 180 days to pick up the firearm after receiving notice.

Other Provisions

Under the bill, a person or entity that provided instruction or training to another person would be immune from civil liability for damages to any person or property caused by the person who was trained, unless the person or entity providing the instruction or training was grossly negligent. This provision would be in addition to, and not instead of, immunity otherwise provided by law.

Under the bill, if a person had obtained a license to purchase, carry, or transport a pistol and a certificate of inspection for that pistol, an immediate family member of the person (the person's spouse, child, parent, grandparent, aunt, uncle, sister, or brother by blood, marriage, or adoption) could carry or transport the pistol in the State for hunting or target practice with the person's permission if the immediate family member were otherwise qualified for a license.

The State Police annually would have to review all other state statutes on licensing to carry a concealed pistol and would have to maintain a list of those states' statutes that substantially conformed with the bill's provisions.

Repealer

The bill would repeal Section 3 of the Act, which allows a local government to charge a concealed weapon license application fee of up to \$5; Section 6, which establishes concealed weapon licensing boards; Section 9d, which provides that a firearm possessed in violation of the Act is subject to

forfeiture; and Section 12c, which provides for the waiver of renewal fees for retired police officers.

House Bill 4530 (S-1)

Concealed Weapon License Application

The bill would allow an individual to apply to the concealed weapon licensing board in the county in which he or she resided for 60 days or more. If an individual had resided for 60 days or more in a county that had a charter, an optional unified form of county government, or a population of more than 700,000 individuals, he or she could apply in that county or a contiguous county, for a license to carry a concealed pistol. The application would have to be filed with the county clerk, as clerk of the board, during normal business hours. The application would have to be signed under oath, and administered by the county clerk or his or her representative. It would have to allow the applicant to designate whether he or she sought a temporary license pending issuance of a regular license.

The application would have to contain the applicant's legal name and date of birth, the address of his or her primary residence, and a statement of the following:

- That the city, village, or township where the applicant resided had a police department, if that were the case.
- That the applicant met all criteria for a license.
- Authority to the board to gain access to any record pertaining to the applicant's qualifications.
- Whether the applicant had a history of mental illness that would disqualify him or her from receiving a license to carry a concealed pistol, and granting authority to the board to gain access to the applicant's mental health records. (The applicant could request that information to be reviewed in a closed session, at which the applicant and his or her representative would have a right to be present. Information received under this provision would be confidential and could not be disclosed except for purposes of the Act.)
- Whether the applicant had ever been convicted in the State or elsewhere of any felony or assaultive crime.
- Whether the applicant was dishonorably discharged from the U.S. armed forces.
- The facts supporting the issuance of a temporary license, if the applicant sought a temporary license pending issuance of a regular license.
- The names, residential addresses, and telephone numbers of two individuals who were the applicant's references.

In addition, the applicant would have to provide a

passport-quality photograph of himself or herself to the board at the time the application was submitted. The application form would have to contain a conspicuous warning that the application was executed under oath and that intentionally making a material false statement on the application would be a felony punishable by imprisonment for up to four years and/or a fine of up to \$2,500. The board would have to retain a copy of each application as an official record.

Concealed Weapon Application Kits

County sheriffs, local law enforcement agencies, and county clerks would have to provide concealed weapon application kits (containing an application form, fingerprint cards, licensing and appeal procedures, and firearm training information), during normal business hours to individuals who wished to apply for licenses. A county sheriff, local law enforcement agency, or county clerk could not deny an individual the right to receive a concealed weapon application kit. The State Police would have to provide the application kits to county sheriffs, local law enforcement agencies, and county clerks in sufficient quantities to meet demand. The State Police could not charge a fee for the kits.

An individual who was denied an application kit and obtained an order of mandamus directing the county sheriff, local law enforcement agency, or county clerk to provide him or her with the application kit would have to be awarded actual and reasonable costs and attorney fees for obtaining the order.

License Requirements and Qualifications

Fees. Each applicant would be required to pay a \$55 fee by any method of payment accepted by that county for payments of other fees and penalties, plus an additional assessment of \$5 for deposit in the Concealed Weapon Enforcement Fund (proposed by Senate Bill 460 (S-9)), when the application was filed. A local unit, an agency of a local unit, or a State agency or department could not charge an additional fee, assessment, or other amount in connection with a concealed pistol license, other than the fingerprint fee provided for under the bill. The fee and assessment would have to be payable to the county. The county treasurer would have to deposit \$10 of each fee in the county general fund to the credit of the county clerk and forward the balance to the State Treasurer. The State Treasurer would have to deposit the balance of the fee in the General Fund to the credit of the State Police and deposit the assessment in the Concealed Weapon Enforcement Fund. Each county would have to report to the Senate and House Fiscal Agencies by October 1 of each year its costs per applicant to implement the bill's application requirements.

Criteria. An individual would not be eligible for a license if he or she were not 21 years of age or older,

were not a U.S. citizen or a resident legal alien, and were the subject of an order or disposition under any of the following:

- Section 464a of the Mental Health Code (which concerns people who are involuntarily hospitalized or involuntarily undergoing alternative treatment and/or hospitalization).
- Section 444a of the Revised Probate Code (which refers to people who are legally incapacitated).
- Section 6b(3) of the Chapter V of the Code of Criminal Procedure (which refers to a defendant who is released subject to a order prohibiting him or her from purchasing or possessing a firearm).
- Section 16b of Chapter IX of the Code of Criminal Procedure (which refers to someone who is found not guilty by reason of insanity).
- Section 2950 or 2950a of the Revised Judicature Act (which govern domestic violence or stalking personal protection orders).

(The Revised Probate Code defines "legally incapacitated person" as a person who is impaired by reason of mental illness, mental deficiency, physical illness or disability, chronic use of drugs, chronic intoxication, or other cause, to the extent that he or she lacks sufficient understanding or capacity to make or communicate informed decisions concerning his or her person.)

An individual also would not be eligible if he or she had been convicted of a violation of any of the following:

- Section 625, 626, or 904 of the Michigan Vehicle Code (which pertain to driving under the influence of alcohol or a controlled substance, reckless driving, or suspension or revocation of a driver's license) within 15 years before the application date, or for a second time.
- Section 625 of the Michigan Vehicle Code or Section 80176 of the Natural Resources and Environmental Protection Act (which prohibits operating a vessel under the influence of alcohol or a controlled substance) if the violation involved an accident resulting in serious physical injury or death to another individual.
- Section 602a of the Michigan Vehicle Code (which refers to a failure to stop on a direction of a conservation or peace officer).
- Section 7401 or 7403 of the Public Health Code (which prohibit the manufacture, delivery, or possession of a controlled substance).
- Section 703 of the Michigan Liquor Control Code (which prohibits a minor from purchasing or possessing alcohol, and prohibits a person from giving fraudulent ID to a minor).

- Various sections of Public Act 45 of 1952 (which refer to reckless, careless, or negligent use of a firearm resulting in injury, death, or property damage; or reckless discharge of a firearm).
- Various sections of the Michigan Penal Code (which prohibit assault or battery; assault or battery causing infliction of serious or aggravated injury; fourth-degree child abuse; accosting, enticing, or soliciting a child for immoral purposes; vulnerable adult abuse; illegal sale of a firearm, ammunition, or self-defense spray; sale or possession of a switchblade; improper transportation of a firearm; failure to have a pistol inspected; accepting a pistol in pawn; failure to register the purchase of a firearm or a firearm component; improperly obtaining a pistol, making a false statement on an application, or using a false identification to purchase a pistol; intentionally aiming a firearm without malice; intentionally discharging a firearm aimed without malice; possessing a firearm on prohibited premises; brandishing a firearm in public; possession of a firearm by an individual under 18 years of age; intentionally discharging a firearm aimed without malice and causing injury; being the parent of a minor who possessed a firearm in a weapon free school zone; setting a spring gun or other device; possessing a firearm while under the influence of intoxicating liquor or a drug; violating the weapon free school zone law; stalking; and fourth-degree criminal sexual conduct).
- A law of the United States, another state, or a local unit of this or another state substantially corresponding to a violation described above.
- A violation charged as a felony or a crime described above, but subsequently reduced to or pleaded to as a misdemeanor not enumerated above.

In addition, the applicant would not be eligible if he or she:

- Were prohibited from possessing, using, transporting, selling, purchasing, carrying, shipping, receiving, or distributing a firearm under the Michigan Penal Code, or from possessing or carrying a firearm under Federal law.
- Had been convicted of a felony, or were subject to a pending felony charge.
- Were adjudicated as a juvenile as being responsible for committing an offense that if committed by an adult would be a felony involving the use of force or the threat of use of force against another individual, or for a criminal offense described in the above list.
- Had been found guilty but mentally ill, offered a plea of not guilty of, or been acquitted of any

crime by reason of insanity.

- Had been subject to an order of involuntary commitment in an inpatient or outpatient setting due to mental illness.
- Had a diagnosed mental illness at the time of application regardless of whether the applicant was receiving treatment.
- Were under a court order of legal incapacity.
- Had not successfully completed a pistol training safety course or class that met the bill's requirements (as described below).

(The bill would define "mental illness" as a substantial disorder of the thought or mood that significantly impaired judgment, behavior, capacity to recognize reality, or ability to cope with the ordinary demands of life, and would include clinical depression. "Treatment" would mean care or any therapeutic service, including the administration of a drug, and any other service for or treatment of a mental illness.) Upon entry of a court order or conviction of the listed prohibitions for using, transporting, selling, purchasing, carrying, shipping, receiving, or distributing a firearm, the State Police immediately would have to enter the order or conviction into the LEIN. For purposes of this Act, information of the court order or conviction could not be removed from the LEIN, but could be moved to a separate file intended for the use of the county gun boards, the courts, and other government entities as necessary and exclusively to determine eligibility for licensure.

Safety Training. A pistol training or safety program would meet the Act's requirements only if the program were certified by the State or a national or state firearms training organization and provided instruction in at least all of the following: the safe storage, use, and handling of a pistol, including storage, use, and handling to protect child safety; ammunition knowledge and the fundamentals of handgun shooting; handgun shooting positions; firearms and the law, including civil liability issues; avoiding criminal attack and controlling a violent confrontation; and all laws that apply to carrying a concealed pistol in this State. The program also would have to provide at least eight hours of instruction, including three hours of firing range time, and provide a certificate of completion stating that the program complied with the bill's requirements and that the individual successfully completed the course. The instructor would have to be certified by the State or a national organization.

A person could not grant a certificate of completion to an individual knowing that he or she did not satisfactorily complete the course, or present a certificate of completion to a concealed weapon licensing board knowing that the individual did not satisfactorily complete the course. A person who violated this provision would be guilty of a felony punishable by imprisonment for up to four years and/or a fine of up to \$2,500.

Fingerprints. Before submitting an application, an individual would be required to have two sets of fingerprints taken by the county sheriff. A county sheriff could charge a fee up to \$15 for the actual and reasonable costs of taking the fingerprints. Within five business days after the individual requested his or her fingerprints to be taken, they would have to be taken. The fingerprints would have to be forwarded to the Department of State Police and the FBI (through the State Police) for comparison with other fingerprints on file. Within 10 days after receiving the FBI's report, the State Police would be required to provide both comparisons to the county sheriff and the concealed weapon licensing board. If the State Police did not provide the comparison report within that period, the State Police would have to notify the licensing board of the delay. The State Police would have to file the fingerprints in the noncriminal fingerprint files.

Except as provided in the bill and in Senate Bill 460 (S-9) for temporary licensure, the board could not issue a license to an applicant until it had received the fingerprint comparison reports. The board would not be required to issue a license to an applicant if his or her fingerprints were determined to be unclassifiable by the FBI.

License Issuance or Denial

A concealed weapon licensing board would have to deny a license if the applicant were not qualified. A board also could deny a license based on clear and convincing documented evidence of other civil infractions, crimes, personal protection orders or injunctions, or police reports that bore directly on the applicant's ability to carry a concealed pistol without being a threat to himself or herself or another individual. If the board determined, however, that none of the disqualifying factors applied, it would have to issue a license promptly to an eligible applicant.

Further, the board would have to issue or deny a license within 30 days after receiving the fingerprint comparison report. If the board denied issuance of the license, it would have to inform the applicant within five business days in writing of the reasons for the denial, including a statement of specific and articulable facts supporting the denial and copies of any writings, photographs, records, or other documentary evidence upon which the denial was based, and inform the applicant in writing of his or her right to appeal the denial to the district court.

If the board did not receive the comparison report within 30 days after it was forwarded to the State Police by the FBI, the board would have to issue a temporary license if the applicant otherwise qualified for a license. The temporary license would be valid for 180 days or until the board received the comparison report and issued or denied issuance of

a license. Upon issuance or denial, the applicant who received the temporary license would have to surrender it to the board.

A license that was issued based upon an application that contained material false statement would be void.

Appeal

If a concealed weapon licensing board denied or failed to issue a license, the applicant could appeal the denial or failure to issue a license to the district court in the judicial district where the applicant resided. The appeal would have to be determined by a review of the record for error, except that if the board's decision were based upon grounds of safety, that portion of the appeal would have to be by hearing de novo. Witnesses would have to be sworn and a jury could not be provided in a hearing. A verbatim record would have to be made.

If the board denied issuance of a license to the applicant based upon his or her use of a controlled substance or alcohol, the court could require the applicant to submit to a chemical analysis of his or her blood, breath, or urine to detect the presence of any controlled substances or alcohol. If the analysis indicated the presence of a controlled substance or alcohol, the court could require the applicant to pay the cost of the analysis. If the analysis did not indicate the presence of a controlled substance or alcohol, the court could order the board to pay the cost of the analysis.

If the court determined that the denial, failure to issue a license, or issuance of a restricted license was clearly erroneous, the court would have to order the board to issue a license. If the court determined that the board's decision to deny issuance of a license was arbitrary and capricious, the court would have to order the board to pay the applicant's actual costs and attorney fees in appealing the denial. If the court determined that the applicant's appeal was frivolous, the court would have to order the applicant to pay the board's actual costs and attorney fees in responding to the appeal.

Concealed Weapon License

A license would have to be in a form prescribed by the State Police. The license would have to contain the licensee's full name, date of birth, and street address, as well as a photograph and physical description of the licensee. It also would have to contain the effective dates of the license.

License Renewal

An individual who was licensed to carry a concealed pistol on the bill's effective date could carry a concealed pistol under the license until its expiration

or until the individual's authority to carry was terminated, whichever occurred first. Upon the license's expiration, the individual could apply for a renewal license.

A concealed pistol license would be valid for three years and could be renewed in the same manner as the original license. The renewal fee would be \$35, or the actual and reasonable costs of that renewal, whichever was greater. The fee would be payable to the county, and would have to be deposited in the county general fund.

In addition, for an individual licensed on or after September 30, 1999, applying for renewal, the educational requirements would be waived except that the applicant would have to present a statement certifying that he or she had completed at least three hours of training review since receiving a license, and that training included firing range time in the six months immediately preceding his or her renewal application. For an individual licensed before September 30, 1999, applying for the first time under the bill to renew a license, the renewal fee also would be \$35 but the educational requirements would not be waived.

Notice of Criminal Charge

A prosecuting attorney promptly would have to notify the concealed weapon licensing board that issued a license of a criminal charge against a license holder for any felony or for a criminal offense listed above and the disposition of the criminal charge. If a license holder were convicted of a crime, the prosecuting attorney's notification would have to indicate if the crime involved the brandishing or use of a pistol, if the license holder carried a pistol during the commission of the crime, or if the license holder carried no pistol during the commission of the crime. The State Police would have to provide a form for reporting purposes. Each year, as determined by the State Police Director, the concealed weapon licensing board chairperson would have to compile and provide a report to the State Police containing the information provided to the board pertaining to any criminal charges, or State civil infractions (concerning showing possession of a license and a license to a peace officer, or carrying a concealed pistol while under the influence of alcohol or a controlled substance) against a license holder.

License Suspension

A concealed weapon licensing board could revoke a license that it had issued if the board determined that the individual committed any violation of the Act (other than a civil infraction involving possession or display of a license), or that the individual was not eligible to receive a license.

If a concealed weapon licensing board determined that an individual had been found responsible for three or more State civil infraction violations of the Act during the license period, the board would have to conduct a hearing and could suspend the individual's license for up to one year.

A license could not be revoked except upon written complaint and an opportunity for a hearing before the board. The board would have to give the individual at least 10 days' notice of the hearing.

If a board were notified that an licensed individual was charged with a felony or specified criminal offense, or if the board determined by clear and convincing evidence based on specific articulable facts that the applicant posed a danger to himself or herself or to any other person, the board immediately would have to suspend the license until there was a final disposition of the charge for that offense (if applicable) or pending a revocation hearing, and send notice of that suspension to the individual. The notice would have to inform the individual that he or she was entitled to a prompt hearing on the suspension, and the licensing board would have to conduct a prompt hearing if requested in writing by the individual.

Pistol-Prohibited Facilities

A licensed individual, or an individual exempt from licensure because he or she was licensed in another state, could not carry a concealed pistol on the premises of a court, a jail, a lock-up, or a juvenile detention facility if that facility were posted to prohibit the carrying of a concealed pistol. Local units of government also could post those facilities as pistol-prohibited.

Carrying Concealed Pistol/Penalties

The bill would require a licensed individual to have the license in his or her possession at all times when carrying a concealed pistol. In addition, a licensed individual would be required to show the license to a peace officer if requested. An individual who failed to do so would be responsible for a State civil infraction and could be fined up to \$100.

A licensed individual who was stopped by a peace officer would have to disclose to the peace officer that he or she was carrying a pistol concealed upon his or her person or in the vehicle. An individual who failed to do so would be responsible for a State civil infraction and could be fined \$500 and/or receive a six-month license suspension for a first offense. The individual could be fined \$1,000 and/or receive a license revocation for a second or subsequent offense.

If an individual were found responsible for a civil infraction under these provisions, the court would have to notify the State Police and the concealed weapon licensing board of that determination.

A pistol carried in violation of these requirements would be subject to seizure by a peace officer without process. If a peace officer seized a pistol, the individual would have 45 days in which to display his or her license or documentation to an authorized employee of the law enforcement entity employing the peace officer. The pistol would subject to forfeiture if the individual did not display his or her license or documentation. This provision would not apply if the peace officer verified through the LEIN that the individual was licensed to carry a concealed pistol.

A pistol carried in violation of the Act would be subject to seizure and forfeiture as provided in the Revised Judicature Act. This provision would not apply if the violation were a State civil infraction involving possession or display of a license, unless the individual failed to present his or her license within the 45-day period.

Alcohol or Drugs/Chemical Analysis

The bill provides that acceptance of a license would constitute implied consent to submit to a chemical

analysis. The bill also specifies that these provisions would apply to an individual who was exempt from having to obtain a license to carry a concealed pistol.

Under the bill, an individual could not carry a concealed pistol while he or she was under the influence of intoxicating liquor or a controlled substance or while having a bodily alcohol content prohibited under the bill. A person who violated these provisions would be responsible for a State civil infraction or guilty of a crime as follows:

- A misdemeanor punishable by imprisonment for up to 93 days and/or \$100, and mandatory permanent license revocation, if the person were under the influence of intoxicating liquor and a controlled substance, or had a bodily alcohol content of 0.10 gram or more per 100 milliliters of blood, per 210 liters of breath, or per 67 milliliters of urine.
- A misdemeanor punishable by imprisonment for up to 93 days and/or \$100, and license revocation for up to three years (if ordered by the court), if the person had an alcohol content of 0.08 gram or more but less than 0.10 gram per 100 milliliters of blood, per 210 liters of breath, or per 67 milliliters of urine.
- A State civil infraction subject to a fine of up to \$100, and license revocation for one year (if ordered by the court), if the person had an alcohol content of 0.02 gram or more but less than 0.08 per 100 milliliters of blood, per 210 liters of breath, or per 67 milliliters of urine.

The court would have to notify the concealed weapon licensing board that issued the individual if that individual were found responsible for a subsequent civil infraction violation.

A police officer who had probable cause to believe that an individual was carrying a concealed pistol in violation of these provisions could require the individual to submit to a chemical analysis of his or her breath, blood, or urine. Before an individual was required to submit to a chemical analysis, the peace officer would have to inform the individual that he or she could refuse but the refusal could result in license revocation or suspension and that the officer could obtain a court order requiring the individual to submit to chemical analysis. If the individual submitted to the chemical analysis, he or she could obtain an analysis from a person of his or her own choosing.

If a person refused to take a chemical test, the peace officer promptly would have to report the refusal in writing to the concealed weapon licensing board that issued the license to the individual. If the person took a chemical test and the test results indicated that he or she had any bodily alcohol content or the presence of a controlled substance while carrying a concealed pistol, the peace officer promptly would

have to report the violation in writing to the licensing board.

The bill states that these provisions would not prohibit a licensed individual who had any bodily alcohol content from transporting a concealed pistol in the locked trunk of his or her motor vehicle or another motor vehicle in which he or she is a passenger or, if the vehicle did not have a trunk, from transporting that unloaded pistol in a locked compartment or container that was separated from the ammunition for that pistol, or on a vessel if the pistol was unloaded in a locked compartment or container that was separated from the ammunition for that pistol.

Database and Annual Report

The State Police would have to create and maintain a computerized database of individuals who applied for a license. The database could contain only the applicant's name, date of birth, address, and county of residence; the concealed weapon license number and expiration date, if the applicant were licensed; if the applicant were denied a license, the reasons for that denial; all pending criminal charges and criminal convictions obtained against the applicant during the license period; and all determinations of responsibility for civil infractions pending or obtained against the applicant during the license period. The information concerning the applicant's name, date of birth, address, and concealed weapon license also would be entered into the Law Enforcement Information Network (LEIN). If an individual who was denied a license after the bill's effective date were subsequently issued a license, the State Police would have to delete the previous reasons for denial from the database.

In addition, the State Police would be required to file an annual report with the Secretary of the Senate and the Clerk of the House of Representatives setting forth the following information for each concealed weapon licensing board: the number of concealed pistol applications received; the number of licenses issued; the number of licenses denied; categories for denial; the number of licenses revoked; categories for revocation; the number of pending applications; the mean and median amount of time and the longest and shortest amount of time used by the FBI to supply the fingerprint comparison report; the number of charges of State civil infractions of the Act or charges of criminal violations filed against licensed individuals that resulted in a finding of responsibility or a conviction; the number of pending criminal charges against licensed individuals and against individuals exempted from licensure; the number of criminal cases dismissed against licensed and exempt individuals; the number of criminal cases filed against licensed individuals that resulted in a finding of not responsible or not guilty; the number of suicides by licensed individuals; and the actual costs incurred per permit for each county.

The information in the database, except for the applicant's date of birth, would be subject to disclosure under the Freedom of Information Act.

Other Provisions

The provides that if the carrying of a specific pistol were illegal under another statute, it would not be rendered legal by a license to carry a concealed pistol.

Currently, all pistols, weapons, or devices carried or possessed contrary to the Act are declared forfeited to the State and must be turned over to the State Police. The bill would require the firearms to be turned over to the Director of the Department of Management and Budget, who would have to dispose of them by conducting a public auction in which the firearms could be purchased by authorized individuals and/or by destroying those firearms that could not be lawfully possessed by individuals under Federal or State laws, that were mechanically defective, or that remained unpurchased after an auction.

MCL 28.430 et. al. (S.B. 460)
722.53 (S.B. 461)
28.421 et al. (H.B. 4530)
750.231a (H.B. 4532)
750.239 (H.B. 4534)
750.552 (H.B. 4543)
750.357b (H.B. 4544)

ARGUMENTS

(Please note: The arguments contained in this analysis originate from sources outside the Senate Fiscal Agency. The Senate Fiscal Agency neither supports nor opposes legislation.)

Supporting Argument

By adopting statewide standards to revise the requirements and criteria for applying to the county gun boards for a license to carry a concealed pistol, House Bill 4530 (S-1) would enable the State to establish a uniform and standardized system for issuing permits. The existing permit-issuing standards vary dramatically from county to county. Reportedly, for example, Macomb County granted 42% of the 7,507 licenses issued in Michigan in 1998, while it can be very difficult to obtain a license in Washtenaw County. The bill would eliminate subjectivity in the permit approval process and provide every applicant who met the criteria set forth in the bill and who wished to obtain a concealed pistol permit with a fair opportunity to do so. It would allow law-abiding citizens to receive a concealed pistol permit without having to indicate a good reason to fear injury or danger, or another proper reason. Apparently, some gun boards are restrictive in their policies and grant licenses only to certain citizens, such as elected officials or former law enforcement officers. According to the *Grand Rapids Press* (9-2-

98), unlike other members of the public, some judges who have obtained permits to carry concealed weapons were not required to appear before the board to defend the need for a permit. The article reports that in Kent County, 98% of 227 unrestricted permits issued in the past five years went to people connected with the law, and in Ottawa County, nearly all 124 permits issued from 1993 to 1997 had law enforcement connections.

Response: Current permit denials are based on an applicant's failure to meet a criterion, and not based on unfair or arbitrary decision-making. According to a review of 14 counties conducted by the Michigan State Police in 1994, the permit approval rating was almost 90% with 9,757 permits approved out of 10,920 applications received. The *Lansing State Journal* (5-14-99) reports that as of March 31, 1999, there were 21,245 unrestricted concealed weapon permits in Michigan. The discretionary powers of local gun boards are essential for the reasonable application of varying community standards. Concealed pistol permits issued on the basis of need provide an important balance between the interests of those who are in danger and the interests of the public to minimize potential risk.

Supporting Argument

Article I, Section 6 of the Michigan Constitution states, "Every person has a right to keep and bear arms for the defense of himself and the state." Responsible and law-abiding citizens should not be denied their constitutional right to bear arms to provide for their own protection and security outside of their homes.

Response: The exercise of this right should remain subject to reasonable regulation and discretion of the permit-issuing gun boards for purposes of protecting the health, safety, and welfare of the public. Although the purpose of self-defense might appear to validate a more liberal gun law, homicides, suicides, and accidental deaths reportedly outnumber self-defense deaths 40:1 (*Detroit Free Press*, 5-24-98).

Supporting Argument

The bills would reduce crime because the increased likelihood that an intended victim could be carrying a gun would deter criminals from attempting a crime against that person. Many times, armed citizens can defend their lives or property from perpetrators by simply brandishing their handgun. According to crime trends reported in Florida, where laws similar to that proposed in the bills have been in place since 1987, the state's homicide rate decreased 27% and its handgun homicide rate decreased 38% through 1994.

Response: Criminals who currently do not carry firearms could feel the need to be armed since their intended victims also would be more likely to be armed. Increased firepower by criminals could further endanger or harm innocent victims. In

addition, armed citizens could increase dangerous vigilante incidents. More guns in general would mean more chances for killings. According to a MIRS report (5-13-99), Attorney General Granholm noted that the nation's crime rate has been decreasing since 1993, the year the Brady Handgun Violence Prevention Act passed. During that period, the crime rate has fallen less in the states with liberal gun laws (2.1% drop in general crime, 3% drop in violent crime) than it has in the states with strict gun laws (4.4 % drop in general crime, 4.9% drop in violent crime).

Supporting Argument

The bill would make Michigan part of a growing nationwide movement to issue a concealed pistol permit to any applicant who fulfilled the specific criteria. Currently, 12 states, including Michigan, are considered to be "may issue" states, where permit issuance is discretionary; while 30 other states are considered to be "shall issue" states, where a permit must be issued if criteria are met. In addition, Vermont does not regulate the carrying of a handgun either openly or concealed, and no permit is required. Reportedly, a study by John Lott, of the University of Chicago, examined the record of 3.5 million concealed weapon permittees in the "shall issue" states and found that those laws actually helped to reduce crime. According to an opinion article in the *Detroit News*, after the laws had been in effect for five years, "...murders declined by at least 15 percent, rapes by 9 percent and robberies by 11 percent" (Felbeck, 5-20-99).

Opposing Argument

It is said that the proposed changes could legally arm up to 200,000 more State residents. More guns would lead to more violence--whether on the road or in stores, restaurants, places of employment, shopping centers, or parking lots. Reportedly, 12,000 motorists last year were injured not from traffic accidents, but at the hands of other motorists acting out of road rage. By replacing an insult or a shove with a bullet, arming angry drivers, customers, and shoppers could lead to deadly confrontations. It is especially important to regulate the carrying of *concealed* pistols because they are not readily apparent. Allowing more people to obtain permits could increase the risk of suicide, family violence, and domestic assault because a concealed weapon would more likely be present in situations involving social interactions, rather than anonymous attackers. Whenever emotions run high, the presence of a gun can turn an unfriendly encounter into a fatal one. According to an article in the *Detroit News* (4-21-99), 482 of Michigan's homicides in 1997 were committed with a firearm. It also has been reported that, for every death from firearms, another two people get shot and have to be hospitalized, and another five people receive outpatient treatment for gunshot wounds (*Detroit Free Press*, 3-24-98).

Furthermore, the easy availability of handguns in coat pockets, purses, and glove boxes would result in more guns being lost or stolen and more children being injured. According to Attorney General Granholm, firearms already are the third leading cause of death for children between the ages of five and 15. Moreover, adults arming themselves against each other would not effectively teach themselves or their children to value or develop nonviolent problem-solving skills. Considering the efforts being made to reduce school violence and keep weapons out of schools, it would be a mistake to send a message to children that packing a pistol is commonplace and acceptable.

Response: Any increase in the number of people carrying concealed pistols is speculative and would not axiomatically create more danger. House Bill 4530 (S-1) actually would strengthen regulations in a number of ways. The bill would add a new requirement that all applicants demonstrate knowledge or training in the safe use and handling of a pistol, and would increase the minimum age for licensure from 18 to 21. The bill also would expand license revocation provisions. In addition, the bill would create new penalties for someone who used, carried, or possessed a firearm while he or she had an unlawful blood alcohol content or was under the influence of a controlled substance, or who failed to disclose his or her license to a peace officer or to disclose that he or she was carrying a concealed pistol in a vehicle.

Opposing Argument

In April of this year, voters in Missouri rejected a ballot referendum to permit the widespread carrying of concealed weapons by a 5% margin. In addition, the *Miami Herald* (4-8-99) reported that in Florida last November, voters overwhelmingly approved a referendum for stricter gun restrictions in a constitutional amendment allowing local governments to regulate firearm sales at gun shows. According to a GONGWER report (4-26-99), a recent survey of 600 registered Michigan voters conducted by EPIC/MRA showed little change in public attitudes toward expanding the issuance of concealed weapons permits, with 53% being opposed to changing the law and 70% believing that someone should not pack a concealed weapon without demonstrating the need for one. In addition, an article in the *Detroit News* (6-1-99) reported that in a poll conducted of 300 registered voters on May 27, 1999, four of five Michigan residents said people should have to prove a need to carry a gun before getting a permit and two-thirds said society would be more dangerous if current permit laws were changed.

Legislative Analyst: N. Nagata

FISCAL IMPACT

Senate Bill 460 (S-9)

The bill would have an indeterminate fiscal impact on State and local government. The bill would require counties to establish one, but not more than three, concealed weapon licensing boards that would consist of three persons. The boards would be required to investigate the eligibility of an applicant for a concealed weapon license and perform other administrative duties to process what some estimate would be 100,000 concealed weapon permit applications in the first year.

In addition, the bill would require the State's Legislative Service Bureau to compile and distribute a compilation of the State's firearm laws at a cost of several thousand dollars.

The bill would establish the "Concealed Weapon Enforcement Fund" in the State Treasury. Money for the Fund could come from any source (including from a portion of the revenue obtained from concealed weapon license fees per House Bill 4530 (S-1), as passed by the Senate) and any other source.

The Department of State Police also would be responsible for providing a triplicate gun purchase form for pistol purchases, annually reviewing all other states' concealed weapons laws, and returning to owners any lost, stolen, or surrendered guns.

There are no data available to indicate how many people could be convicted of carrying a concealed weapon on premises such as a school, church, or sports arena. A first violation of this section would be a civil violation subject to a fine of up to \$500. A second violation would be a misdemeanor punishable by a fine of up to \$1,000. A subsequent conviction would be a felony punishable by up to four years' imprisonment and/or a maximum fine of \$5,000.

Senate Bill 461

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

House Bill 4530 (S-1)

The bill would have a fiscal impact on State and local government that cannot be precisely determined at this time.

On the local government level, the concealed weapon licensing board or other local officials would be subject to possible costs beyond normal operating costs, involving denied licenses and other matters. In the event that an individual was denied an application kit (required under the bill to be provided) and had to obtain a court order to obtain one, that individual would have to be awarded actual and reasonable costs and attorney fees for obtaining the order. Also, if a denied applicant's appeal to a district court were successful in ordering a board to

issue a license (and the court determined that denial to be arbitrary and capricious), the court would have to order the board to pay the applicant's actual costs and attorney fees associated with the appeal. Conversely, if the court determined an applicant's appeal to be frivolous, the court would have to order the applicant to pay the concealed weapon licensing board's costs.

In addition, if on appeal the court ordered a drug test (estimated to cost \$75) and the applicant passed, the court could order the board to pay the cost of the analysis.

Also, local boards would, on an annual basis, be required to compile a report to the Department of State Police about criminal charges or civil infractions against a license holder and hold hearings when a license would be suspended.

The Department of State Police would incur costs associated with the provisions in this bill. The Department would have to provide concealed weapon application kits to county sheriffs, local law enforcement agencies, and county clerks. Under the bill, the Department could not charge a fee for the kits. Should the number of concealed weapon applications reach 100,000 in a given year, printing and distribution costs could be considerable.

The Department also would be required to create and maintain a computerized database of applicants, which could result in the Department's having to assume computer programming and labor costs of approximately \$100,000. Additionally, the Department would be required to submit to the Legislature an annual report containing the number of concealed weapon license applications and other detailed data concerning the licensing program. The bill would require the Department to run fingerprint background checks of each applicant through both State and Federal (FBI) fingerprint files. The actual costs for running the required fingerprint comparison checks are \$15 for the State and \$24 for the Federal check. Should 100,000 persons apply for a license in a given year, this would cost the Department \$3,900,000. The bill does not specify how these costs would be recouped, though the \$45 of each applicant fee that would be forwarded to the State Police could be used to offset this expense.

House Bill 4530 (S-1) also provides for certain application fees that could serve to offset at least some of the costs associated with the administration of the concealed weapons licensing program. Each applicant would be required to pay \$55 when an application was filed. The county treasury would deposit \$10 of each applicant fee into the general fund of the county. The Department of State Police would receive \$45 of the applicant fee into its general fund. Based upon an estimate of 100,000 applicants during the first year of the bill's provisions,

\$1,000,000 of these fees would go to counties and \$4,500,000 would go to the Department of State Police.

The bill would impose upon each applicant an additional assessment of \$5, to be deposited in the Concealed Weapon Enforcement Fund (as proposed under Senate Bill 460 (S-9)). First-year accumulated revenue for the fund is estimated to be \$50,000.

The bill also would limit the amount that a county sheriff could charge an applicant for taking required fingerprints to \$15.

The bill also would provide for a three-year license renewal fee of \$35 (or the actual cost, whichever was greater) to be charged to license holders. These funds would be deposited into the county's general fund. With 100,000 license holders, this would generate approximately \$1,200,000 annually to counties.

In addition, House Bill 4530 (S-1) would have an indeterminate fiscal impact on State and local government for the cost of incarceration and/or the receipt of fine revenue.

There are no data available to indicate how many people would be convicted of the following acts prohibited in the bill:

- 1) Making a false statement on a sales record.
- 2) Intentionally making a material false statement on an application for a concealed weapons permit.
- 3) Granting a certificate of completion to an individual who did not satisfactorily complete training or presenting a certificate to the licensing board.

Conviction for these crimes would result in a felony with a maximum term of four years' incarceration and/or a fine of up to \$2,500.

The bill also would criminalize carrying a concealed weapon while being intoxicated or under the influence of a controlled substance. The sanction for conviction under this section would vary with the bodily alcohol content, with a maximum sentence of 93 days and/or a fine of \$100 and revocation of the concealed weapon permit. There are no data to indicate how many individuals could be convicted of these crimes.

House Bills 4532 (S-1) and 4534

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

House Bill 4543 (S-2)

House Bill 4543 (S-2) would have an indeterminate fiscal impact on local government.

There are no data available to indicate how many people are convicted of trespassing, and therefore there are no data to indicate how many more individuals could be convicted of carrying a concealed pistol onto prohibited premises. Penalties resulting from a violation of this section would affect local units of government, which would incur costs of incarceration or receive fine revenue.

House Bill 4544 (H-1)

House Bill 4544 (H-1) would have an indeterminate fiscal impact, yet would potentially increase costs for State government.

The bill would increase the maximum sentence from five years to 15 years for offenders who steal a firearm, and would create a crime of possessing a stolen firearm with a maximum penalty of 10 years' incarceration and/or a fine of \$2,500. There are no data available to indicate how many people would be guilty of possessing a stolen firearm. However, in 1997, two offenders were committed to prison for larceny of firearms for a minimum sentence of three years.

If the two offenders committed to prison in 1997 represent the number of offenders committed each year and if the offenders serve the full minimum sentence in a State correctional facility, assuming that the offenders instead would be subject to a 15-year maximum sentence, and would receive and serve a six-year minimum sentence in a State correctional facility, given that the annual average cost of incarceration is \$22,000, the costs of incarceration would increase from \$88,000 to \$264,000.

Fiscal Analyst: B. Baker
K. Firestone

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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.