

Legislative Analysis



FINGERPRINTS AS LEGAL SIGNATURE

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House Bill 4258 as enrolled
Public Act 266 of 2005
Sponsor: Rep. Fred Miller
House Committee: Government Operations
Senate Committee: Judiciary

Second Analysis (1-10-06)

BRIEF SUMMARY: The bill would permit an individual who is unable to write to use his or her fingerprints where a "written signature" is required.

FISCAL IMPACT: The bill does not appear to have any fiscal impact on the state or local governments.

THE APPARENT PROBLEM:

Chapter 1 of the Revised Statutes of 1846, entitled "Of the Statutes," addresses the construction (i.e., interpretation) of state statutes, including how certain words and phrases are to be understood. The chapter provides that, as a matter of law, the words "written" and "in writing" may include printing, engraving, and lithographing, except in cases where an individual's written signature is required by law, in which case the signature shall be his or her proper handwriting or, if the person is unable to write, his or her "proper mark."

The proper mark of an individual has traditionally been an "X" – a mark that is easily forged, particularly given that many individuals who are physically unable to sign their name may not make the same "X" twice. Some people are concerned about the use of an "X" as a proper mark given the increase in identity theft and the special vulnerability of the elderly and physically challenged.

It has been suggested that a fingerprint be considered a person's written signature when he or she is unable to write.

THE CONTENT OF THE BILL:

House Bill 4258 would amend Chapter 1 of the Revised Statutes of 1846 (MCL 8.3q) to permit an individual who is unable to write to use his or her fingerprints as a written signature, unless otherwise expressly prohibited by law.

Under Chapter 1, if a person's written signature is required by law and the person is unable to write, that person's "proper mark" may be used instead of a signature. The bill provides that a proper mark could include the person's clear and classifiable fingerprint.

ARGUMENTS:

For:

The bill provides greater security to individuals who are unable to write, by allowing their fingerprints to be used as their written signature, as fingerprints cannot be forged. The use of a "proper mark" in state statutes traces its history to the mid-1800's, a time many could not read or write. The use of the "X", some believe, appears to stigmatize elderly and physically challenged individuals as illiterate or uneducated, a connotation avoided by the use of a fingerprint.

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