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BILL ANALYSIS

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House Bill 4258 (Substitute S-1 as reported)
Sponsor: Representative Fred Miller
House Committee: Government Operations
Senate Committee: Judiciary

Date Completed: 11-29-05

RATIONALE

Chapter 1 of the Revised Statutes of 1846 contains rules for the construction of Michigan statutes. Chapter 1 provides that, if the written signature of a person is required by law, the signature must be his or her proper handwriting or, if the person is unable to write, his or her proper mark may be used. A person's mark other than a signature typically is an "X" and historically has been used by people who were illiterate, but also may be used by someone who is unable to write because of a physical debility. Some people believe that using an "X" to sign a document carries a stigma associated with illiteracy and that the disabled and others who cannot sign their name should be authorized by law to use their fingerprint in lieu of a written signature.

CONTENT

The bill would amend Chapter 1 of the Revised Statutes of 1846 to allow a person who was unable to write to use a fingerprint when a written signature is required by law.

Under Chapter 1, if a person's written signature is required by law and the person is unable to write, his or her proper mark may be used instead of a signature. Under the bill, a proper mark could include a person's clear and classifiable fingerprint made with ink or another substance.

MCL 8.3q

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

According to an article in the *Macomb Daily*, a woman who is unable to sign her name because she suffers from cerebral palsy found it demoralizing to have to use an "X" instead of her signature ("X didn't mark the spot", 9-12-05). The use of an "X" as a proper mark instead of a signature dates back to a time when many people were unable to sign their name because they were illiterate. Requiring people who cannot write their signature because of the effects of aging or physical disability to use an "X" when signing documents may unfairly stigmatize them as ignorant or uneducated. By allowing a person's proper mark to include his or her fingerprint, the bill would enable people to avoid situations in which they may feel belittled by having to mark an "X" to sign a document.

Supporting Argument

Unlike a person's written signature, there is nothing particularly unique or consistent about an "X" used in place of a signature. Two or more people may make an "X" virtually in the same manner, causing confusion as to who actually approved a document. On the other hand, an individual may mark an "X" in a different manner from one time to another, leading to confusion as to whether a proper mark on one document matched that on another. Using a fingerprint in place of a signature would avoid this confusion.

In addition, the lack of uniqueness and consistency in using an "X" as a proper mark

could make people who use that alternative more vulnerable to identity theft. By allowing the use of a fingerprint as a proper mark, the bill would provide greater security to those who are unable to write.

Opposing Argument

The bill could cause some inconsistencies in the law. For instance, the Michigan Vehicle Code requires that a driver's license include the licensee's signature, but it specifically prohibits a license from containing a fingerprint or finger image of the licensee (MCL 257.310). Even if Secretary of State employees were authorized to accept a fingerprint instead of a written signature, the branch offices are not equipped with fingerprint cards and ink pads or scanning devices for taking digitized fingerprints, and their employees are not trained in the proper technique for taking fingerprints. Other government and private offices that are required to collect signatures also may lack the necessary equipment and expertise to take a person's fingerprints.

In addition, according to a representative of the Secretary of State's office who testified before the Senate Judiciary Committee, the Secretary of State has a long-term goal of using the digitized signatures on driver's licenses and State identification cards to verify people's signatures when they vote. While precinct workers might easily be able to compare a person's signature on a voting card with his or her stored, digitized signature, they likely would lack the expertise to compare a person's fingerprint on a voting card with one on file or digitally stored.

Legislative Analyst: Patrick Affholter

FISCAL IMPACT

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

Fiscal Analyst: Bill Bowerman

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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.