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BILL ANALYSIS

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Senate Bill 505 (Substitute S-1 as reported)
Sponsor: Senator Roger Kahn, M.D.
Committee: Judiciary

(as passed by the Senate)

Date Completed: 12-20-07

RATIONALE

The handgun licensure law contains a list of places where a person who is licensed under the law, or who is exempt from the requirement for licensure, is prohibited from carrying a concealed pistol. Called "no-carry zones", these include sports arenas, taverns, hospitals, schools, day care centers, and houses of worship. The prohibition does not apply, however, to certain licensees, such as corrections officers and retired police officers, who are more likely than the average citizen to interact with or be threatened by potentially dangerous individuals. It has been pointed out that judges, too, routinely deal with violent people, as well as those who are mentally unstable or are in highly stressful domestic situations. Evidently, some Michigan judges and their family members have received threats from people who have been in the judges' courtrooms. To protect their safety, it has been suggested that State court judges also should be exempt from the prohibition against carrying concealed pistols in no-carry zones.

CONTENT

The bill would amend the handgun licensure law to exclude a State court judge or retired judge who was licensed under the law from provisions that prohibit an individual who is licensed to carry a concealed pistol, or who is exempt from licensure, from carrying a concealed pistol on certain premises. The bill would take effect 90 days after it was enacted.

Specifically, the law prohibits a person who is licensed to carry a concealed pistol, or who is exempt from licensure, from carrying

a concealed pistol on the premises (excluding the parking areas) of any of the following:

- A school or school property, except in the case of a student's parent or legal guardian who is in a vehicle on school property and is dropping off or picking up the student.
- A public or private child care center or day care center, child caring institution, or child placing agency.
- A sports arena or stadium.
- A licensed bar or tavern whose primary source of income is the sale of liquor by the glass for on-premises consumption.
- Any property or facility owned or operated by a church, synagogue, mosque, temple, or other place of worship, unless its presiding official or officials permit the carrying of a concealed pistol on the property or facility.
- An entertainment facility with a seating capacity of 2,500 or more that the person knows or should know has such a seating capacity or that has a sign stating that capacity.
- A hospital.
- A dormitory or classroom of a community college, college, or university.

A person who violates the prohibition is responsible for a State civil infraction punishable by a maximum fine of \$500, and a mandatory six-month suspension of the person's license to carry a concealed pistol. A second violation is a misdemeanor punishable by a maximum fine of \$1,000, and mandatory revocation of the individual's license to carry a concealed pistol. A third or subsequent violation is a felony

punishable by up to four years' imprisonment and/or a maximum fine of \$5,000, and mandatory license revocation.

Under the bill, the prohibition against carrying a concealed pistol in a no-carry zone would not apply to a State court judge or State court retired judge who was licensed under the law. The concealed weapon licensing board could require a 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 this exemption. A State court judge would be a district, circuit, probate, or Court of Appeals judge, or a justice of the Supreme Court, serving either by election or by appointment. A State court retired judge would be such a judge or justice who was retired.

Currently, the prohibition against carrying a concealed pistol in a no-carry zone does not apply to any of the following:

- A licensee under the handgun licensure law who is a retired police officer or retired law enforcement officer.
- An individual licensed under the law who is employed or contracted by an entity in a no-carry zone to provide security services and is required by his or her employer or the terms of a contract to carry a concealed firearm on the premises of the employing or contracting entity.
- An individual licensed as a private investigator or private detective.
- Any of the following who is licensed under the handgun licensure law, while on duty and in the course of his or her employment: a corrections officer of a county sheriff's department; a Department of State Police motor carrier officer or Capitol security officer; a member of a sheriff's posse; a police or sheriff's department auxiliary officer or reserve officer; or a Department of Corrections parole or probation officer.

MCL 28.421 & 28.425o

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

Judges are in a unique position because they literally pass judgment on the individuals in their courtrooms, and make decisions that directly affect people's lives. In addition to sentencing convicted criminals, judges are responsible for committing mentally unstable individuals, issuing personal protection orders, terminating parental rights, and granting custody and parenting time: all matters that can be emotionally charged and highly stressful to the individuals involved, and might trigger a dangerous reaction in a normally noncombative person. When people focus their resentment and anger on the judge, he or she may be at risk, especially if the person sentenced, committed, or subject to a court order is unstable or has history of violent behavior. According to testimony before the Senate Judiciary Committee, judges in Michigan have in fact received personal threats as well as threats to their families. In addition, judges are vulnerable not just in their courtrooms, but also in such places as restaurants, movie theaters, and sports arenas.

While not all of these venues are no-carry zones, judges who are licensed to carry concealed weapons should have the ability to protect themselves wherever they are, and should not have to worry about breaking the law by being armed in a no-carry zone. A judge who is taking a walk in his or her neighborhood, for example, should not have to go unprotected because his or her route crosses school property. Also, a judge should be able to stop for a drink at a tavern or attend a football game at a stadium without removing his or her weapon. In both of these no-carry zones, a judge could easily encounter or be followed by someone he or she previously sentenced or committed.

By adding State court judges to the list of handgun licensees who are exempt from the no-carry zone prohibition, the bill would enhance the ability of judges to protect themselves and their families.

Response: The exemption should be extended to Federal court judges, who also are vulnerable to threats by criminals or mentally unstable individuals who might be prone to violence. Perhaps court referees, magistrates, and prosecutors should be exempted, as well.

Opposing Argument

Rather than expanding the list of people who are exempt from the no-carry zone prohibition, legislation should eliminate the zones altogether. Without the zones, people who have a license to carry would not be any more likely to draw their weapons in bars, churches, and schools than they are now. Furthermore, many people besides judges, corrections officers, retired police officers, and private detectives are vulnerable to predators. Senior citizens, for example, are an easy target and deserve the ability to protect themselves anywhere.

Response: The exemptions apply to individuals whose occupations may routinely bring them into contact with people who might be armed or who have a history of violence. The statute does not place a higher value on some people's lives than on others', but recognizes that some licensees may be in particular danger or targeted for revenge because of their line of work. At the same time, the no-carry zones include premises where vulnerable populations, such as schoolchildren and patients, are located, as well as crowded venues, such as sports arenas, where many people could be injured in an attack or a predator could be easily concealed.

Legislative Analyst: Suzanne Lowe

FISCAL IMPACT

The bill would have an indeterminate fiscal impact on State and local government. There have been no felony convictions for carrying a concealed pistol on no-carry premises for a third or subsequent violation since the current penalties were enacted in 2000. There are no data on misdemeanor convictions. To the extent that the bill would reduce convictions, local governments would incur decreased costs of misdemeanor probation and incarceration in local facilities, which vary by county. The State would incur decreased costs of felony probation at an annual average cost of \$2,000, as well as the cost of incarceration in a State facility at an average annual cost of \$31,000.

Fiscal Analyst: Lindsay Hollander

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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.