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House Bill 4146 and House Bill 4147 (as passed by the House)
House Bill 4148 (Substitute H-2 as passed by the House)
Sponsor: Representative Kelly Breen (H.B. 4146)
Representative Julie Brixie (H.B. 4147)
Representative Stephanie A. Young (H.B. 4148)
House Committee: Judiciary
Senate Committee: Committee of the Whole

Date Completed: 4-19-23

INTRODUCTION

Senate Bill 83 (H-5), which is not included in this summary, would enact the Extreme Risk protection Order Act to allow specified individuals to file an action requesting that a circuit court enter an extreme risk protection order (ERPO) for an individual. House Bill 4146 would prohibit an individual who was subject to an Extreme Risk Protection Order (ERPO) from qualifying for a pistol license and a concealed pistol license (CPL). The other two bills would add sentencing guidelines for felonies proposed under the ERPO Act and exempt the serving of an ERPO from specified service requirements.

Each bill is tie-barred to House Bill 4145. House Bill 4145 is a companion bill to Senate Bill 83 which is tie-barred to House Bill 4146 and 4147 and has passed the Senate and the House.

BRIEF FISCAL IMPACT

Taken together, the bills would have indeterminate, but negative, fiscal impacts on State and local government. These impacts would arise as a result of, among other things, increased workloads in local court systems and the Supreme Court Administrative Office (SCAO); increased administrative and training costs for local law enforcement agencies; increased resource demands on community supervision, jails, and correctional facilities; and programing costs to allow for data entry of ERPOs within the Law Enforcement Information Network (LEIN).

PREVIOUS LEGISLATION

(Please note: The information in this summary provides a cursory overview of previous legislation and its progress. It does not provide a comprehensive account of all previous legislative efforts on the relevant subject matter.)

House Bills 4146, 4147, and 4148 are companion bills to Senate Bills 84, 86, and 85, respectively. The Senate bills have passed the Senate and have been reported by the House Committee on Judiciary.

MCL 28.422 et al. (H.B. 4146)
MCL 600.1908 et al. (H.B. 4148)
Proposed MCL 777.15e (H.B. 4147)

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CONTENT

House Bill 4146 would amend the handgun licensure Act to do the following:

- Prohibit an individual who was subject to ERPO from qualifying for a pistol license.**
- Prohibit an individual who was subject to an ERPO from qualifying for a CPL.**

House Bill 4148 (H-2) would amend the Code of Criminal Procedure to add the felonies proposed in Senate Bill 83 (H-5) to the Code's sentencing guidelines.

House Bill 4147 would amend the Revised Judicature Act to create specified exemptions when processing or filing a civil action for the proposed Extreme Risk Protection Order Act, which Senate Bill 83 (H-5) would enact.

House Bill 4146

Pistol Licensure

The handgun licensure Act prohibits a person from purchasing, carrying, possessing, or transporting a pistol in the State without first having obtained a license for the pistol. The Act prescribes the process for applying for a pistol license, including the requirements that an applicant must meet to qualify for the license. Among other qualifications, an individual must not be subject to specified orders or dispositions that were entered into LEIN and for which the individual has received notice and an opportunity for a hearing, such as an order for involuntary hospitalization under the Mental Health Code. Under the bill, an individual could not be subject to an ERPO that was entered into LEIN and for which the individual had received notice and an opportunity for a hearing.

The handgun licensure Act requires the MSP to send written notice immediately to an individual after an order or disposition specified in the Act is entered into LEIN. Upon notification, the Act allows an individual subject to an order entered into LEIN to request that the MSP either amend an inaccuracy in the information entered into LEIN or expunge the individual's name and other information from LEIN because certain circumstances apply, including a circumstance in which the individual is not subject to an order of involuntary commitment in an inpatient or outpatient setting because of mental illness. Under the bill, an individual who was the subject of an order entered into LEIN could request that the MSP expunge the individual's name and other information from the LEIN because he or she was not subject to an ERPO.

The Act prohibits the MSP from sending written notice of an entry into LEIN, as required by the Act for specified orders, until the MSP has received notice that the respondent of the order has been served with or has received notice of the order. Under the bill, this provision would apply to an ERPO.

Concealed Pistol License

The handgun licensure Act requires an individual to apply to the county clerk in the county which the individual resides to obtain a CPL. An individual must meet certain requirements to qualify for a CPL, and the county clerk verifies those requirements. Among other requirements, a county clerk must determine that an applicant is not subject to specified orders or dispositions, such as an order for involuntary hospitalization under the Mental Health Code. Under the bill, the county clerk would have to determine that the applicant was not subject to an ERPO.

The Act specifies that if a CPL is suspended because the clerk determines that an individual is subject to a PPO, and the individual surrendered the license, the county clerk must automatically reinstate the CPL upon expiration of the order, so long as the MSP verifies this information, and the CPL is not expired. Under the bill, this provision would apply to a CPL suspended because of an ERPO.

House Bill 4147

The Revised Judicature Act specifies that the process in civil actions may be served by a person of suitable age and discretion who is not a party or an officer of a corporate party. If service of process is made upon an individual by leaving a summons and a copy of the complaint with the defendant personally, on a person in a governmental institution, hospital, or home, the service of process must be made by the person in charge or staff of the institution. Under the bill, these provisions would not apply to service under the Extreme Risk Protection Order Act.

In addition, the bill would prohibit a person from charging or collecting a fee for service process issued in an action brought under the Extreme Risk Protection Order Act, or for serving any order issued in the action.

House Bill 4148 (H-2)

The bill would amend the Code of Criminal Procedure to include the felonies listed in Table 1 and proposed by Senate Bill 83 (H-5) in the Code's sentencing guidelines.

Table 1

Violation	Category	Class	Stat Max
Violation extreme risk protection order, 1st offense	Public Safety	G	1
Violation extreme risk protection order, 2nd offense	Public Safety	F	4
Violation extreme risk protection order 3rd/+ offense	Public Safety	E	5
False statement in complaint for an extreme risk protection order, 2nd Offense	Public Trust	F	4
False statement in complaint for an extreme risk protection order, 3rd/+ Offense	Public Trust	E	5
Knowingly providing firearm to individual restrained under an extreme risk protection order	Public Safety	G	1

FISCAL IMPACT

House Bill 4146

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

House Bill 4147

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

House Bill 4148 (H-2)

The bill would have no fiscal impact on local government and an indeterminate fiscal impact on the State, in light of the Michigan Supreme Court's July 2015 opinion in *People v. Lockridge*, in which the Court ruled that the sentencing guidelines are advisory for all cases. This means

that the addition to the guidelines under the bill would not be compulsory for the sentencing judge. As penalties for felony convictions vary, the fiscal impact of any given felony conviction depends on judicial decisions.

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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.