

**MINUTES OF THE COMMITTEE
ON
JUDICIARY**

Thursday, October 2, 2014

9:00 a.m.

Room 521 House Office Building

The House Standing Committee on Judiciary was called to order by the Chair.

Members present: Reps. Cotter, Kesto, Heise, Johnson, LaFontaine, Leonard, Howrylak, Cavanagh, Lipton, Irwin, Clemente.

Members absent/excused: None.

Representative Heise moved to approve the minutes of the September 18, 2014 meeting. There being no objection, the motion prevailed by unanimous consent.

Representative LaFontaine moved to approve the corrected minutes of the September 11, 2014 meeting. There being no objection, the motion prevailed by unanimous consent.

The Chair laid SB 863 before the committee:

SB 863	(Pavlov)	Criminal procedure; evidence; expert witness testimony concerning chemical testing and custody of evidence by video communication; allow at preliminary examination and trial for certain prosecutions, and provide for release subject to conditions reasonably necessary for the protection of the public under certain circumstances.
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Representative Lauwers testified in support of the bill.

The Chair laid HB 5652, HB 5653, HB 5654, HB 5655, HB 5656, HB 5657, HB 5658, and HB 5659 before the committee:

HB 5652	(Santana)	Civil procedure; other; mediation; limit in certain domestic relations actions.
HB 5653	(Price)	Crimes; assaultive; assault of a pregnant woman; prohibit.
HB 5654	(Hovey-Wright)	Crime victims; other; address confidentiality program for victims of domestic violence crimes; create.
HB 5655	(Irwin)	Employment security; benefits; disqualification from receiving benefits when leaving employment; create exception for domestic violence victim.
HB 5656	(Singh)	Civil rights; housing discrimination; housing discrimination for domestic violence victims; prohibit.
HB 5657	(Olumba)	Education; curriculum; curriculum and policies on teen dating violence; require department to adopt or develop models for and encourage school districts to implement.

HB 5658 (Santana) Civil procedure; personal protection orders; acts that may be enjoined; include harming animals owned by petitioner.

HB 5659 (Santana) Criminal procedure; search and seizure; seizure of firearms and ammunition during a domestic violence incident; allow.

Representative Heise moved to report HB 5652 with recommendation that the bill be referred to the Committee on Families, Children and Seniors. The motion prevailed 10-0-0.

FAVORABLE ROLL CALL

Yeas: Reps. Cotter, Heise, Johnson, LaFontaine, Leonard, Howrylak, Cavanagh, Lipton, Irwin, Clemente.

Nays: None.

Pass: None.

Representative Johnson moved to report HB 5653 with recommendation that the bill be referred to the Committee on Families, Children and Seniors. The motion prevailed 10-0-0.

FAVORABLE ROLL CALL

Yeas: Reps. Cotter, Heise, Johnson, LaFontaine, Leonard, Howrylak, Cavanagh, Lipton, Irwin, Clemente.

Nays: None.

Pass: None.

Representative Heise moved to report HB 5654 with recommendation that the bill be referred to the Committee on Families, Children and Seniors. The motion prevailed 10-0-0.

FAVORABLE ROLL CALL

Yeas: Reps. Cotter, Heise, Johnson, LaFontaine, Leonard, Howrylak, Cavanagh, Lipton, Irwin, Clemente.

Nays: None.

Pass: None.

Representative Irwin moved to report HB 5655 with recommendation that the bill be referred to the Committee on Families, Children and Seniors. The motion prevailed 10-0-0.

FAVORABLE ROLL CALL

Yeas: Reps. Cotter, Heise, Johnson, LaFontaine, Leonard, Howrylak, Cavanagh, Lipton, Irwin, Clemente.

Nays: None.

Pass: None.

Representative Heise moved to report HB 5656 with recommendation that the bill be referred to the Committee on Families, Children and Seniors. The motion prevailed 10-0-0.

FAVORABLE ROLL CALL

Yeas: Reps. Cotter, Heise, Johnson, LaFontaine, Leonard, Howrylak, Cavanagh, Lipton, Irwin, Clemente.

Nays: None.

Pass: None.

Representative Heise moved to report HB 5657 with recommendation that the bill be referred to the Committee on Families, Children and Seniors. The motion prevailed 10-0-0.

FAVORABLE ROLL CALL

Yeas: Reps. Cotter, Heise, Johnson, LaFontaine, Leonard, Howrylak, Cavanagh, Lipton, Irwin, Clemente.

Nays: None.

Pass: None.

Representative Heise moved to report HB 5658 with recommendation that the bill be referred to the Committee on Families, Children and Seniors. The motion prevailed 10-0-0.

FAVORABLE ROLL CALL

Yeas: Reps. Cotter, Heise, Johnson, LaFontaine, Leonard, Howrylak, Cavanagh, Lipton, Irwin, Clemente.

Nays: None.

Pass: None.

Representative Johnson moved to report HB 5659 with recommendation that the bill be referred to the Committee on Families, Children and Seniors. The motion prevailed 10-0-0.

FAVORABLE ROLL CALL

Yeas: Reps. Cotter, Heise, Johnson, LaFontaine, Leonard, Howrylak, Cavanagh, Lipton, Irwin, Clemente.

Nays: None.

Pass: None.

The Chair laid HB 5450, HB 5748, HB 5749, and HB 5750 before the committee:

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|---------|------------|---|
| HB 5450 | (Shirkey) | Weapons; firearms; mail order air rifles; allow. |
| HB 5748 | (Rendon) | Weapons; firearms; reference to certain repealed definition in the penal code; eliminate. |
| HB 5749 | (Pettalia) | Weapons; firearms; regulation of spring, gas, or air operated handguns; repeal. |
| HB 5750 | (Franz) | Weapons; firearms; definition of firearms; modify. |

Substitute (H-2) to HB 5450 was previously adopted on 09/18/2014.

Representative LaFontaine moved to report HB 5450 as substitute (H-2) with recommendation. The motion prevailed 7-0-3.

FAVORABLE ROLL CALL

Yeas: Reps. Cotter, Heise, Johnson, LaFontaine, Leonard, Howrylak, Lipton.

Nays: None.

Pass: Reps. Cavanagh, Irwin, Clemente.

Representative Johnson moved to report HB 5748 with recommendation. The motion prevailed 7-0-3.

FAVORABLE ROLL CALL

Yeas: Reps. Cotter, Heise, Johnson, LaFontaine, Leonard, Howrylak, Lipton.

Nays: None.

Pass: Reps. Cavanagh, Irwin, Clemente.

Representative Johnson moved to report HB 5749 with recommendation. The motion prevailed 7-0-3.

FAVORABLE ROLL CALL

Yeas: Reps. Cotter, Heise, Johnson, LaFontaine, Leonard, Howrylak, Lipton.

Nays: None.

Pass: Reps. Cavanagh, Irwin, Clemente.

Representative Johnson moved to report HB 5750 with recommendation. The motion prevailed 7-0-3.

FAVORABLE ROLL CALL

Yeas: Reps. Cotter, Heise, Johnson, LaFontaine, Leonard, Howrylak, Lipton.

Nays: None.

Pass: Reps. Cavanagh, Irwin, Clemente.

The Chair returned to SB 863.

Representative Heise moved to report SB 863 with recommendation. The motion prevailed 10-0-0.

FAVORABLE ROLL CALL

Yeas: Reps. Cotter, Heise, Johnson, LaFontaine, Leonard, Howrylak, Cavanagh, Lipton, Irwin, Clemente.

Nays: None.

Pass: None.

The Chair laid HB 5366, HB 5367, HB 5368, HB 5369, and HB 5370 before the committee:

HB 5366	(LaFontaine)	Probate; guardians and conservators; fiduciary access to digital assets act; enact.
HB 5367	(Lauwers)	Probate; wills and estates; powers of personal representatives; enact fiduciary access to digital assets act.
HB 5368	(Cotter)	Probate; other; definitions relating to the fiduciary access to digital assets act; enact.
HB 5369	(Leonard)	Probate; powers of attorney; authority or agent; enact fiduciary access to digital assets act.
HB 5370	(Jenkins)	Probate; trusts; fiduciary access to digital assets act; enact.

Chairman Cotter discussed the proposed amendments before the committee. Questions and discussion followed.

Noah Smith, representing the NetChoice Coalition, submitted a card in opposition to the bills, but did not wish to speak.

Representative LaFontaine offered the following amendments to HB 5366:

1. Amend page 3, line 21, after "**TO**" by inserting "**STATE AND FEDERAL LAW, INCLUDING COPYRIGHT LAW, AND**".
2. Amend page 4, line 17, after "**TO**" by inserting "**STATE AND FEDERAL LAW, INCLUDING COPYRIGHT LAW, AND**".
3. Amend page 5, line 23, after "**(1).**" by striking out the balance of the line through "**COMPLIANCE.**" on line 25.

Representative LaFontaine moved to adopt the amendments to HB 5366. The motion prevailed 9-0-1.

FAVORABLE ROLL CALL

Yeas: Reps. Cotter, Heise, Johnson, LaFontaine, Leonard, Howrylak, Cavanagh, Lipton, Clemente.

Nays: None.

Pass: Rep. Irwin.

Representative LaFontaine moved to report HB 5366 with recommendation, as amended, as substitute (H-1). The motion prevailed 6-0-4.

FAVORABLE ROLL CALL

Yeas: Reps. Cotter, Heise, Johnson, LaFontaine, Leonard, Howrylak.

Nays: None.

Pass: Reps. Cavanagh, Lipton, Irwin, Clemente.

Chairman Cotter offered the following amendments to HB 5367:

1. Amend page 2, line 12, after "**APPLICABLE**" by inserting "**STATE AND FEDERAL LAW, INCLUDING COPYRIGHT**".
2. Amend page 9, line 9, after "**TO**" by inserting "**STATE AND FEDERAL LAW, INCLUDING COPYRIGHT LAW, AND**".
3. Amend page 9, line 20, after "**(1).**" by striking out the balance of the line through "**COMPLIANCE.**" on line 22.

Representative LaFontaine moved to adopt the amendments to HB 5367. The motion prevailed 9-0-1.

FAVORABLE ROLL CALL

Yeas: Reps. Cotter, Heise, Johnson, LaFontaine, Leonard, Howrylak, Cavanagh, Lipton, Clemente.

Nays: None.

Pass: Rep. Irwin.

Representative LaFontaine moved to report HB 5367 with recommendation, as amended, as substitute (H-1). The motion prevailed 6-0-4.

FAVORABLE ROLL CALL

Yeas: Reps. Cotter, Heise, Johnson, LaFontaine, Leonard, Howrylak.

Nays: None.

Pass: Reps. Cavanagh, Lipton, Irwin, Clemente.

Chairman Cotter offered the following amendment to HB 5368:

1. Amend page 6, line 7, after "**SOUNDS**," by inserting "**AUDIOVISUAL WORKS**,".

Representative Heise moved to adopt the amendment to HB 5368. The motion prevailed 10-0-1.

FAVORABLE ROLL CALL

Yeas: Reps. Cotter, Kesto, Heise, Johnson, LaFontaine, Leonard, Howrylak, Cavanagh, Lipton, Clemente.

Nays: None.

Pass: Rep. Irwin.

Representative Kesto moved to report HB 5368 with recommendation, as amended, as substitute (H-1). The motion prevailed 7-0-4.

FAVORABLE ROLL CALL

Yeas: Reps. Cotter, Kesto, Heise, Johnson, LaFontaine, Leonard, Howrylak.

Nays: None.

Pass: Reps. Cavanagh, Lipton, Irwin, Clemente.

Representative Leonard offered the following amendments to HB 5369:

1. Amend page 3, line 10, after "**TO**" by inserting "**STATE AND FEDERAL LAW, INCLUDING COPYRIGHT LAW, AND**".

2. Amend page 5, line 5, after "**TO**" by inserting "**STATE AND FEDERAL LAW, INCLUDING COPYRIGHT LAW, AND**".

3. Amend page 7, line 27, after "**(1)**." by striking out the balance of the line through "**COMPLIANCE.**" on line 2 of page 8.

Representative Leonard moved to adopt the amendments to HB 5369. The motion prevailed 10-0-1.

FAVORABLE ROLL CALL

Yeas: Reps. Cotter, Kesto, Heise, Johnson, LaFontaine, Leonard, Howrylak, Cavanagh, Lipton, Clemente.

Nays: None.

Pass: Rep. Irwin.

Representative Leonard moved to report HB 5369 with recommendation, as amended, as substitute (H-1). The motion prevailed 7-0-4.

FAVORABLE ROLL CALL

Yeas: Reps. Cotter, Kesto, Heise, Johnson, LaFontaine, Leonard, Howrylak.

Nays: None.

Pass: Reps. Cavanagh, Lipton, Irwin, Clemente.

Chairman Cotter offered the following amendments to HB 5370:

1. Amend page 7, line 20, after "**TO**" by inserting "**STATE AND FEDERAL LAW, INCLUDING COPYRIGHT LAW, AND**".

2. Amend page 8, line 3, after "**(1)**." by striking out the balance of the line through "**COMPLIANCE.**" on line 5.

Representative Kesto moved to adopt the amendments to HB 5370. The motion prevailed 10-0-1.

FAVORABLE ROLL CALL

Yeas: Reps. Cotter, Kesto, Heise, Johnson, LaFontaine, Leonard, Howrylak, Cavanagh, Lipton, Clemente.

Nays: None.

Pass: Rep. Irwin.

Representative Kesto moved to report HB 5370 with recommendation, as amended, as substitute (H-1). The motion prevailed 7-0-4.

FAVORABLE ROLL CALL

Yeas: Reps. Cotter, Kesto, Heise, Johnson, LaFontaine, Leonard, Howrylak.

Nays: None.

Pass: Reps. Cavanagh, Lipton, Irwin, Clemente.

The Chair laid the committee at ease, the time being 9:30 a.m.

The Chair brought the committee back to order, the time being 9:49 a.m.

The Chair laid HB 5545 before the committee:

HB 5545 (Leonard) Criminal procedure; expunction; criminal record expunction for certain offenses; allow under certain circumstances.

Representative Leonard offered the following amendments:

1. Amend page 2, line 6, after "(B)" by striking out "A" and inserting "**EXCEPT AS PROVIDED IN SUBDIVISION (C), A**".

2. Amend page 2, following line 9, by inserting:

"(C) A PERSON WHO WAS CONVICTED OF A VIOLATION OR AN ATTEMPTED VIOLATION OF SECTION 520E OF THE MICHIGAN PENAL CODE, 1931 PA 328, MCL 750.520E, BEFORE THE EFFECTIVE DATE OF THE AMENDATORY ACT THAT ADDED THIS SUBDIVISION, MAY PETITION THE CONVICTING COURT TO SET ASIDE THE CONVICTION IF THE INDIVIDUAL HAS NOT BEEN CONVICTED OF ANOTHER OFFENSE OTHER THAN NOT MORE THAN 2 MINOR OFFENSES. AS USED IN THIS SUBDIVISION, "MINOR OFFENSE" MEANS A MISDEMEANOR OR ORDINANCE VIOLATION TO WHICH ALL OF THE FOLLOWING APPLY:

(i) THE MAXIMUM PERMISSIBLE TERM OF IMPRISONMENT DOES NOT EXCEED 90 DAYS.

(ii) THE MAXIMUM PERMISSIBLE FINE IS NOT MORE THAN \$1,000.00.

(iii) THE PERSON WHO COMMITTED THE OFFENSE IS NOT MORE THAN 21 YEARS OLD."

3. Amend page 3, following line 11, by inserting:

"(C) A VIOLATION OR ATTEMPTED VIOLATION OF SECTION 520E OF THE MICHIGAN PENAL CODE, 1931 PA 328, MCL 750.520E, IF THE CONVICTION OCCURRED AFTER THE EFFECTIVE DATE OF THE AMENDATORY ACT THAT ADDED THIS SUBDIVISION." and relettering the remaining subdivisions.

Representative Leonard discussed the changes made in the amendments.

Representative Leonard moved to adopt the amendments to HB 5545. The motion prevailed 11-0-0.

FAVORABLE ROLL CALL

Yeas: Reps. Cotter, Kesto, Heise, Johnson, LaFontaine, Leonard, Howrylak, Cavanagh, Lipton, Irwin, Clemente.

Nays: None.

Pass: None..

Patrick Clawson, representing himself, testified in opposition to the bill.

The following people submitted a card in support of the bill, but did not wish to speak:

Peter Cunningham, representing the State Bar of Michigan.

Cami Pendell, representing the Michigan Judges Association.

Kathy Hagenian, representing the Michigan Coalition to End Domestic and Sexual Violence.

Representative Haveman.

The following people submitted a card in opposition to the bill, but did not wish to speak.

Representative Tlaib.

Representative Erwin-Oakes.

Shelli Weisberg, representing the American Civil Liberties Union of Michigan.

Noah Smith, representing the Criminal Defense Attorneys of Michigan, submitted a card with a neutral position on the bill, but did not wish to speak.

Representative Leonard moved to report HB 5545 with recommendation, as amended, as substitute (H-1). The motion prevailed 9-0-2.

FAVORABLE ROLL CALL

Yeas: Reps. Cotter, Kesto, Johnson, LaFontaine, Leonard, Howrylak, Cavanagh, Irwin, Clemente.

Nays: None.

Pass: Reps. Heise, Lipton.

There being no further business before the committee, the Chair adjourned the meeting at 9:58 a.m.

Representative Kevin Cotter, Chair_____

Angie Lake, Committee Clerk

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