

**MINUTES OF THE COMMITTEE
ON
JUDICIARY**

Thursday, December 4, 2014

8:30 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 November 13, 2014 meeting. There being no objection, the motion prevailed by unanimous consent.

The Chair laid SB 789 and SB 790 before the committee:

SB 789 (Green) Weapons; licensing; concealed pistol licensing boards; eliminate, and transfer duties to department of state police and county clerks.

SB 790 (Green) Criminal procedure; sentencing guidelines; reference in sentencing guidelines; update.

Senator Green and Ryan Mitchell explained the changes made in the proposed substitute. Questions and discussion followed.

Sgt. Amy Dehner, representing the Michigan State Police, submitted a card in opposition to the bills, but did not wish to speak.

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

Dakota Moore, representing the National Rifle Association.

Jason Gillman, representing Michigan Open Carry.

Brady Schickinger, representing the Michigan Coalition for Responsible Gun Owners.

Representative Johnson moved to adopt substitute (H-2) to SB 789. The motion prevailed 8-1-1.

FAVORABLE ROLL CALL

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

Nays: Rep. Irwin.

Pass: Rep. Lipton.

The Chair laid SB 964, SB 965, SB 966 and SB 979 before the committee:

SB 964 (Pavlov) Weapons; firearms; definition of firearm in MCL 8.3t; modify.

SB 965 (Hune) Weapons; firearms; definition of firearm in the Michigan penal code; modify.

SB 966 (Jones) Weapons; firearms; definition of firearm in NREPA; modify.

SB 979 (Hildenbrand) Weapons; firearms; definition of pneumatic guns; provide for, and prohibit certain regulations by local units of government.

Fred Schrible, representing Senator Hildenbrand's office, testified in support of the bills. Questions and discussion followed.

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

Dakota Moore, representing the National Rifle Association.

Brady Schickingler, representing the Michigan Coalition for Responsible Gun Owners.

Derek Tisler, representing the Michigan Municipal League, submitted a card in opposition to SB 979, but did not wish to speak.

Sgt. Amy Dehner, representing the Michigan State Police, submitted a card with a neutral position on the bills, but did not wish to speak.

Gary Reed, representing the Michigan Association of Chiefs of Police, submitted a card with a neutral position on the bills, but did not wish to speak.

Representative LaFontaine moved to adopt substitute (H-3) to SB 965. The motion prevailed 10-0-0.

FAVORABLE ROLL CALL

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

Nays: None.

Pass: None.

Representative LaFontaine offered the following amendment to SB 966:

1. Amend page 4, following line 1, by inserting:

"Sec. 40111. (1) Except as otherwise provided in subsection (3) or (4), this part, or in a department order authorized under section 40107, an individual shall not take an animal from in or upon a vehicle.

(2) Except as otherwise provided in subsection (3) or (4), this part, or in a department order authorized under section 40107, an individual shall not transport or possess a firearm in or upon a vehicle, unless the firearm is unloaded in both barrel and magazine and enclosed in a case, carried in the trunk of a vehicle, or unloaded in a motorized boat.

(3) A person with a disability may transport or possess a firearm in or upon a vehicle, except for a car or truck, on a state licensed game bird hunting preserve if the firearm is unloaded and the vehicle is operated at a speed of not greater than 10 miles per hour. A person with a disability may possess a loaded firearm and may discharge that firearm to take an animal from in or upon a vehicle, except for a car or truck, on a state licensed game bird hunting preserve if the vehicle is not moving. The department may demand proof of eligibility under this subsection. An individual shall possess proof of his or her eligibility under this subsection and furnish the proof upon the request of a peace officer.

(4) An individual may transport or possess an unloaded firearm in or upon a vehicle on a sporting clays range.

(5) Except as otherwise provided in this part, an individual shall not transport or possess a bow in or upon a vehicle, unless the bow is unstrung, enclosed in a case, or carried in the trunk of a vehicle.

(6) An individual shall not hunt, ~~or discharge a firearm~~ **AS THAT TERM IS DEFINED IN SECTION 43505**, within 150 yards of an occupied building, dwelling, house, residence, or cabin, or any barn or other building used in connection with a farm operation, without obtaining the written permission of the owner, renter, or occupant of the property.

(7) As used in this section:

(a) "Person with a disability" means a disabled person as that term is defined in section 19a of the Michigan vehicle code, 1949 PA 300, MCL 257.19a, and who is in possession of 1 of the following:
(i) A certificate of identification or windshield placard issued to a disabled person under section 675 of the Michigan vehicle code, 1949 PA 300, MCL 257.675.
(ii) A special registration plate issued to a disabled person under section 803d of the Michigan vehicle code, 1949 PA 300, MCL 257.803d.
(b) "Unloaded" means, for a break-action firearm, that the action is open with the breech exposed, whether or not the breech contains a shell. Unloaded means, for a non-break-action firearm, that the barrel of the firearm does not contain a shell."

Representative LaFontaine moved to adopt the amendment to SB 966. The motion prevailed 9-0-1.

FAVORABLE ROLL CALL

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

Nays: None.

Pass: Rep. Lipton.

The Chair laid the committee at ease, the time being 8:53 a.m.

The Chair brought the committee back to order, the time being 9:01 a.m.

The chair laid HB 5958 before the committee:

HB 5958 (Bolger) Civil rights; religious discrimination; Michigan religious freedom restoration act; create.

Speaker Bolger testified in support of his bill. Questions and discussion followed.

Brock Swartzle, representing Speaker Bolger's Office, answered further questions.

Susan Grettenberger, representing the National Association of Social Workers – Michigan Chapter, testified in opposition to the bill. Question and discussion followed.

Professor William Wagner, representing himself, testified in support of the bill. Questions and discussion followed.

Fred Hoffmen, representing the Michigan Competitive Workforce Coalition, testified in opposition to the bill. Questions and discussion followed.

Tim Schultz, representing the First Amendment Partnership, testified in support of the bill. Questions and discussion followed.

The following people submitted a card in opposition to the bill, but due to time constraints were unable to speak:

Julian Mortenson, representing himself.

Thomas Zaremba, representing the Citizen Advocate.

Randy Block, representing the Michigan Unitarian Universality Social Justice Network.

Brett Williams, representing the Michigan Consumers for Health Care.

Ashely Lowe, representing herself.

Amanda LeAnne Brunzell, representing Catholics for Choice.

Marc Shaberman, representing the Secular Coalition for Michigan.

Scott Foval, representing the People for the American Way.
Leslea Fritz and Daniel Levy, representing the Michigan Department of Civil Rights.

Tom Hickson, representing the Michigan Catholic Conference, submitted a card in support of the bill, but due to time constraints, was unable to speak.

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

Shelli Weisberg, representing the American Civil Liberties Union of Michigan.
Marissa Luna, representing herself.
Matt Kovac, representing himself.
Sam Ingot, representing himself.
Allan Wachendoref, Director of Public Policy for the National Association of Social Workers of Michigan.
Campron Fure, representing the Michigan Nurses Association.
Amanda West, representing the Planned Parenthood.
Julie Rowe, representing the AFT Michigan.
Bill Flory, representing the Michigan Association for Justice.
Bill Kandler, representing the American Congress of OB/GYNs.
Patricia Hammer, representing the Michigan Unitarian Universality Social Justice Network.
Kathryn Kelly, representing herself.
Ben Bodkin, representing the Michigan Sheriffs Association.
Mia McNeil, representing the Michigan School Counselor Association.
Stephanie Johnson, representing the Michigan Coalition to End Domestic and Sexual Violence.

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

James Muffett, representing the Citizens for Traditional Values.
Ed Rivet, representing the Right to Life of Michigan.
Dan Jarvis, representing the Michigan Family Forum.

Representative Clemente offered the following amendment:

1. Amend page 4, following line 27, by inserting:
"(6) This act does not establish or eliminate a claim or defense in a judicial or administrative proceeding involving a claim of discrimination prohibited under state or local law or policy."

Representative Clemente moved to adopt the amendment to the bill. The motion did not prevail 4-7-0.

UNFAVORABLE ROLL CALL

Yeas: Reps. Cavanagh, Lipton, Irwin, Clemente.
Nays: Reps. Cotter, Kesto, Heise, Johnson, LaFontaine, Leonard, Howrylak.
Pass: None.

Representative Clemente offered the following amendment:

1. Amend page 4, line 1, after "government." by inserting "A person cannot claim a defense under this subsection unless the person demonstrates the sincerity of the religious belief by tithing in support of the religion."

Representative Clemente moved to adopt the amendment to the bill. The motion did not prevail 3-8-0.

UNFAVORABLE ROLL CALL

Yeas: Reps. Cavanagh, Lipton, Clemente.

Nays: Reps. Cotter, Kesto, Heise, Johnson, LaFontaine, Leonard, Howrylak, Irwin.

Pass: None.

Representative Irwin offered the following amendment:

1. Amend page 4, following line 27, by inserting:

"(6) Nothing in this act shall be construed to permit a religious belief otherwise protected by this act to be used to avoid accountability for an act that violates the Elliott-Larsen civil rights act, 1976 PA 453, MCL 37.2102 to 37.2804."

Representative Irwin moved to adopt the amendment to the bill. The motion did not prevail 4-7-0.

UNFAVORABLE ROLL CALL

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

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

Pass: None.

Representative Irwin offered the following amendment:

1. Amend page 4, following line 27, by inserting:

"(6) Nothing in this act protects a religious practice that subjects a child to physical, sexual, or emotional abuse, including, but not limited to, genital mutilation, molestation, and incest."

Representative Irwin moved to adopt the amendment to the bill. The motion did not prevail 4-7-0.

UNFAVORABLE ROLL CALL

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

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

Pass: None.

Representative Irwin offered the following amendment:

1. Amend page 4, following line 27, by inserting:

"(6) Nothing in this act prohibits state departments or their contractors from establishing policies for the purposes of cost savings or for the safety and protection of employees or residents of state-run or state-contracted residential or penal facilities."

Representative Irwin moved to adopt the amendment to the bill. The motion did not prevail 4-7-0.

UNFAVORABLE ROLL CALL

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

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

Pass: None.

Representative Cavanagh offered the following amendment:

1. Amend page 3, line 27, after "judicial" by striking out "or administrative".

Representative Cavanagh moved to adopt the amendment to the bill. The motion did not prevail 4-7-0.

UNFAVORABLE ROLL CALL

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

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

Pass: None.

Representative Cavanagh offered the following amendment:

1. Amend page 3, line 20, after "religion" by striking out "in that particular instance".

Representative Cavanagh moved to adopt the amendment to the bill. The motion did not prevail 4-7-0.

UNFAVORABLE ROLL CALL

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

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

Pass: None.

Representative Kesto moved to report HB 5958 with recommendation. The motion prevailed 7-4-0.

FAVORABLE ROLL CALL

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

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

Pass: None.

The Chair return to SB 789 and SB 790.

Representative LaFontaine moved to report SB 789 with recommendation, as substitute (H-2). The motion prevailed 8-2-1.

FAVORABLE ROLL CALL

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

Nays: Reps. Lipton, Irwin.

Pass: Rep. Cavanagh.

Representative Leonard moved to report SB 790 with recommendation. The motion prevailed 8-2-1.

FAVORABLE ROLL CALL

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

Nays: Reps. Lipton, Irwin.

Pass: Rep. Clemente.

Representative Clemente moved to reconsider the vote by which SB 789 was reported out of committee. The motion prevailed. 10-1-0

FAVORABLE ROLL CALL

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

Nays: Rep. Irwin.

Pass: None.

Representative LaFontaine moved to report SB 789 with recommendation, as substitute (H-2). The motion prevailed 7-3-1.

FAVORABLE ROLL CALL

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

Nays: Reps. Lipton, Irwin, Clemente.

Pass: Rep. Cavanagh.

The Chair returned to SB 964, SB 965, SB 966 and SB 979.

Representative Kesto moved to report SB 964 with recommendation. 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 LaFontaine moved to report SB 965 with recommendation, as substitute (H-3). 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 LaFontaine moved to report SB 966 with recommendation, as amended, as substitute (H-1). 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 SB 979 with recommendation. The motion prevailed 7-2-2.

FAVORABLE ROLL CALL

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

Nays: Rep. Lipton, Irwin.

Pass: Rep. Cavanagh, Clemente.

There being no further business before the committee, the Chair adjourned the meeting at 10:40 a.m.

Representative Kevin Cotter, Chair_____

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