

Submitter: jim jagger
On Behalf Of: self
Committee: Senate Committee On Judiciary
Measure: SB348

B (continuation of first text marked "A"

Next the weight of proof is also changed. On page 3 the weight of proof is if it "is reasonably likely to be". The term likely has legal significance. It means more likely than not. The classic picture of the lady of justice holding two scales, one in each hand, deciding which is the greater, ie or more likely than not. It is the burden used in civil trials. And the standard expected in M114. Another standard for proof is "clear and convincing". This is used in civil and criminal trials and generally referenced as meaning "evidence is highly and substantially more likely to be true than untrue. The fact finder must be convinced that the contention is highly probable. So on page 4 there is added the word "objective facts and informationsufficient to CLEARLY ESTABLISH that the applicant has been or is reasonably likely to be a danger..... It thus creates an unusually higher burden and greater weight of evidence to deny the permit. Not what the voters of M114 supported. A change that does not act to save lives but makes it easier for the Permit agent to not be careful and ask few, if any, investigative questions. If it is more probable than not, ie likely, that a risk exists, then the permit should not be given and this person should not be able to acquire a lethal firearm.

If the committee wanted some change in M114 to give more direction to the Permit agent then something like this would work with the added language to M114 in bold type.

"An applicant is qualified to be issued a permit-to-purchase under this section if the person is at least 21 years of age and:.....

FROM OBJECTIVE FACTS, OBTAINED FROM A RELEVANT REASONABLE INVESTIGATION SPECIFICALLY CONFINED TO THE SUBJECT OF THIS PARAGRAPH INCLUDING BUT NOT LIMITED TO, AS APPROPRIATE CONTACT WITH IMMEDIATE FAMILY, RECORDS AND SOCIAL MEDIA, APPLICANT

(b)(E) Does not present reasonable grounds for a permit agent to conclude that the applicant has been or is reasonably likely to be a danger to self or others, or to the community at large,

as a result of the applicant's mental or psychological state or

as demonstrated by the applicant's past pattern of behavior involving unlawful violence or threats of unlawful violence;"

In summary the added language on page 4, eliminates from M114, (a) a reasonable investigation, (b) eliminates investigation into the mental and psychological state of the applicant and (c) requires greater proof than simply proof that it is "likely" that there is a risk to self or others or the community. One would

think, if I were told if I left my home it would be "likely" I would die, that would be sufficient to keep me inside. I would not say to myself, "I think I will go out because it was not "clear" or "highly likely" that I would die". All this work is done to save lives. Can't forget that. Hopefully this helps your thoughts on this one issue on SB348.

jim