CHAPTER 28. MICHIGAN STATE POLICE

MICHIGAN STATE POLICE
Act 59 of 1935

AN ACT to provide for the public safety; to create the Michigan state police, and provide for the organization thereof; to transfer thereto the offices, duties and powers of the state fire marshal, the state oil inspector, the department of the Michigan state police as heretofore organized, and the department of public safety; to create the office of commissioner of the Michigan state police; to provide for an acting commissioner and for the appointment of the officers and members of said department; to prescribe their powers, duties, and immunities; to provide the manner of fixing their compensation; to provide for their removal from office; and to repeal Act No. 26 of the Public Acts of 1919, being sections 556 to 562, inclusive, of the Compiled Laws of 1929, and Act No. 123 of the Public Acts of 1921, as amended, being sections 545 to 555, inclusive, of the Compiled Laws of 1929.

History: 1935, Act 59, Imd. Eff. May 17, 1935;—Am. 1939, Act 152, Eff. Sept. 29, 1939.

The People of the State of Michigan enact:

28.1 Michigan state police; definitions.

Sec. 1. As employed in this act, the following words or terms shall be understood to mean:

(a) The word "commissioner" shall mean commissioner or commanding officer of the Michigan state police.

(b) "Acting commissioner" shall mean the acting commissioner or commanding officer of the Michigan state police.

(c) "Officer" shall mean any member of the Michigan state police executing the constitutional oath of office.

(d) "Civilian employe" shall mean any employe not executing the constitutional oath of office.

(e) "Members,""members of the department," or "members of said department" shall mean any employe of said department whether an officer or a civilian employe.

(f) "Department" shall mean the "Michigan state police."

History: 1935, Act 59, Imd. Eff. May 17, 1935;—CL 1948, 28.1.

28.2 Michigan state police; creation; director, appointment, salary, oath of office, location of department.

Sec. 2. There is created a department of the state government which shall be known and designated as the Michigan state police, which shall consist of a director as its executive head, and of such officers and employees as may be appointed or employed in such department. The director shall be appointed by the governor, by and with the advice and consent of the senate, and shall hold office during good behavior. The salary of the director shall be such as shall be appropriated by the legislature. The director shall execute the constitutional oath of office.

History: 1935, Act 59, Imd. Eff. May 17, 1935;—CL 1948, 28.2;—Am. 1952, Act 253, Eff. Sept. 18, 1952;—Am. 1967, Act 68, Eff. Mar. 22, 1968.

28.3 Acting commissioner; designation, compensation, length of service.

Sec. 3. The commissioner may appoint or designate 3 officers from among the 10 highest ranking commissioned officers of the department to serve in the order of precedence, as named, as acting commissioner in his absence from the aforesaid office, during his illness and/or during his disability for any reason to perform his duties: Provided, however, That any such officer so acting shall receive no additional compensation by virtue thereof. An officer appointed or designated or serving as acting commissioner may be relieved from such appointment or designation or service at the will of the commissioner.

History: 1935, Act 59, Imd. Eff. May 17, 1935;—CL 1948, 28.3.

28.4 Divisions; officers, qualifications, oath of office; hearing, dismissal; civilian employees.

Sec. 4. Said department shall consist of a uniformed division, a detective division, and such other divisions, bureaus or branches as have been or may be established by law or by the commissioner in his discretion. The commissioner shall establish a highway patrol in the uniform division consisting of not less than 100 members. The commissioner shall appoint and employ all members of said department and they shall be classified as officers and civilian employes. All persons appointed as officers shall be at the time of

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their appointment not less than 21 years of age, the maximum age limit to be fixed by the commissioner from time to time, shall be of sound mind and body, be of good moral character, be citizens of the United States and residents of the state of Michigan and shall possess such educational qualifications as the commissioner may from time to time prescribe. All persons appointed as officers shall execute the constitutional oath of office before entering upon their duties. No officer shall be dismissed, except when insufficient funds require a reduction in expenditures in which case the officer or officers junior in point of service shall be discharged, until a due hearing on his removal shall be had as hereinafter provided. Civilian employes may be dismissed at the will of the commissioner.

History: 1935, Act 59, Imd. Eff. May 17, 1935;—Am. 1941, Act 115, Imd. Eff. May 21, 1941;—CL 1948, 28.4.

28.5 Repealed. 2006, Act 190, Imd. Eff. June 19, 2006.

Compiler's note: The repealed section pertained to transfer of certain departments and offices to Michigan state police.

28.6 Commissioner and officers; powers and duties generally.

Sec. 6. (1) The commissioner and each officer of the department are vested with the powers of a conservator of the peace. They may also apply to any judicial officer of the state for the issuance of search warrants, warrants of arrest or any other criminal process, or orders necessary when the institution of criminal proceedings for the discovery or punishment of a felony or a misdemeanor of any degree is ordered in writing by the attorney general in any case where the proper prosecuting attorney fails or refuses to act or give his or her approval. The commissioner and each officer of the department have all the immunities and matters of defense available to conservators of the peace or sheriffs, or both, in any action brought against them by virtue of acts done in the course of their employment.

(2) Any member of the department may serve and execute all criminal and civil process, when directed to do so by the governor or the attorney general, in actions and matters in which the state is a party. The commissioner and the department are under the immediate control and direction of the governor, and any member of the department may be employed by the attorney general in any investigation or matter under the jurisdiction of his or her department.

(3) The commissioner may, upon the order of the governor, call upon any sheriff or other police officer of any county, city, township, or village, within the limits of their respective jurisdictions, for aid and assistance in the performance of any duty imposed by this act. Upon being notified or called upon for aid and assistance, the officer concerned shall comply with the order to the extent requested. Refusal or neglect to comply with the order is misfeasance in office, and shall subject the officer refusing or neglecting to comply with the order to removal from office.

(4) The commissioner shall formulate and put into effect plans and means of cooperating with the local police and peace officers throughout the state for the purpose of the prevention and discovery of crimes and the apprehension of criminals. Local police and peace officers shall cooperate with the commissioner in those plans and means. Every telegraph and telephone company operating within this state shall grant priority of service to the police agencies and to the state police when notified that the service is urgent and in the interests of the public safety.

(5) The commissioner and all officers of the department have all the powers of deputy sheriffs in the execution of the criminal laws of the state and of all laws for the discovery and prevention of crime, and have authority to make arrests without warrants for all violations of the law committed in their presence, including laws designed for the protection of the public in the use of the highways of the state, and to serve and execute all criminal process. The commissioner and all officers of the department also have the authority to exercise the powers of deputy sheriffs in the execution of civil bench warrants issued by a circuit court pursuant to any domestic relations matter and to serve a personal protection order or arrest an individual who is violating or has violated a personal protection order issued under section 2950 or 2950a of the revised judicature act of 1961, 1961 PA 236, MCL 600.2950 and 600.2950a. The commissioner and all officers of the department shall cooperate with other state authorities and local authorities in detecting crime, apprehending criminals, and preserving law and order throughout the state.

History: 1935, Act 59, Imd. Eff. May 17, 1935;—CL 1948, 28.6;—Am. 1989, Act 10, Imd. Eff. May 3, 1989;—Am. 2000, Act 83, Eff. July 1, 2000.

28.6a Conservation officers; appointment by commissioner as state police officers.

Sec. 6a. The commissioner is hereby authorized, with the approval of the director of conservation and the governor, to appoint any conservation officer as a special state police officer, who shall be vested with the powers of an officer of the state police, and who shall in his capacity as special state police officer be under the direction of the commissioner.

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History: Add. 1942, 1st Ex. Sess., Act 4, Imd. Eff. Jan. 28, 1942;—CL 1948, 28.6a.

28.6b Repealed. 2000, Act 197, Imd. Eff. June 22, 2000.

Compiler's note: The repealed section pertained to state police reserve.

28.6c Limited arrest powers for certain security personnel; authorization; exercise; rescission; firearms; exclusion of security personnel from pension, accident, and disability plan.

Sec. 6c. (1) The director may authorize, in writing, on forms prescribed by him, limited arrest powers for security personnel employed by the state for the protection of state owned or leased, property or facilities, in the city of Lansing, and in Windsor township of Eaton county. Limited arrest authority may be exercised only when the security employee is on a tour of duty as prescribed by the director upon state owned or leased property and the person is identified by a uniform as a state security employee. Limited arrest power is automatically rescinded upon termination of employment with the state. The director may authorize security employees to carry a firearm while on duty.

(2) A security employee granted limited arrest authority by this section shall not be entitled by reason of employment to become a member of the state police pension, accident, and disability plan established by Act No. 251 of the Public Acts of 1935, as amended, being sections 28.101 to 28.110 of the Michigan Compiled Laws, or other similar departmental program.

History: Add. 1976, Act 65, Imd. Eff. Mar. 31, 1976.

28.6d Motor carrier enforcement; appointment of officers with limited arrest powers; firearms; circumstances permitting arrest without warrant; officer not entitled to membership in state police pension, accident, and disability plan or similar program.

Sec. 6d. (1) The director may appoint officers with limited arrest powers for motor carrier enforcement. Such officers shall be officers of the motor carrier enforcement division of the department and shall have all powers conferred upon peace officers for the purpose of enforcing the general laws of this state as they pertain to commercial vehicles. The director may authorize officers of the motor carrier enforcement division to carry a firearm.

(2) In addition to the limited arrest authority granted in subsection (1), an officer of the motor carrier enforcement division, while on duty, may arrest a person without a warrant, if 1 or more of the following circumstances exist:

(a) The person commits an assault or an assault and battery punishable under section 81 or 81a of the Michigan penal code, Act No. 328 of the Public Acts of 1931, being sections 750.81 and 750.81a of the Michigan Compiled Laws, against the officer or against another person in the presence of the officer.

(b) The officer has reasonable cause to believe that a felony has been committed and reasonable cause to believe that the person committed it.

(c) The officer has received positive information by written, telegraphic, teletypic, telephonic, radio, or other authoritative source, that a peace officer holds a warrant for the person's arrest.

(d) The person commits a civil infraction or misdemeanor in violation of 1 or more of the following sections of the Michigan vehicle code, Act No. 300 of the Public Acts of 1949:

(*i*) Section 625 or 625b, being sections 257.625 and 257.625b of the Michigan Compiled Laws.

(*ii*) Sections 716 to 726, being sections 257.716 to 257.726 of the Michigan Compiled Laws.

(e) The person commits a misdemeanor or felony in violation of chapter LVI of the Michigan penal code, Act No. 328 of the Public Acts of 1931, being sections 750.377 to 750.394 of the Michigan Compiled Laws.

(3) An officer appointed by authority of this section shall not be entitled by reason of employment to become a member of the state police pension, accident, and disability plan established by Act No. 251 of the Public Acts of 1935, being sections 28.101 to 28.110 of the Michigan Compiled Laws, or other similar department program.

History: Add. 1982, Act 531, Imd. Eff. Dec. 31, 1982.

28.6e Law enforcement officer of Michigan Indian tribal police force; appointment; compensation; participation in pension or insurance plan; definitions.

Sec. 6e. (1) The director may appoint a law enforcement officer of a Michigan Indian tribal police force to act as a police officer for a Michigan Indian tribe upon Indian country of the tribe.

(2) The department of state police and the director are not liable for the acts of a law enforcement officer of a Michigan Indian tribal police force who is appointed under this section.

(3) The Michigan Indian tribe to which the law enforcement officer of a Michigan Indian tribal police

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force is appointed shall pay compensation to the officer.

(4) A law enforcement officer of a Michigan Indian tribal police force appointed under this section is not eligible to participate in any state pension, disability, or life insurance plan or any hospitalization or other medical insurance plan of the department solely on the basis of his or her employment under this section.

(5) As used in this section:

(a) "Law enforcement officer of a Michigan Indian tribal police force" means a regularly employed member of a police force of a Michigan Indian tribe who is appointed pursuant to 25 C.F.R. 12.100 to 12.103.

(b) "Michigan Indian tribe" means a federally recognized Indian tribe that has trust lands located within this state.

(c) "Indian country" means all of the following:

(*i*) All land within the limits of any Indian reservation under the jurisdiction of the United States government, notwithstanding the issuance of any patent, and including rights-of-way running through the reservation.

(*ii*) All dependent Indian communities within the borders of the United States whether within the original or subsequently acquired territory of the dependent Indian community, and whether within or without the limits of a state.

(*iii*) All Indian allotments, the Indian titles to which have not been extinguished, including rights-of-way.

History: Add. 1995, Act 203, Imd. Eff. Nov. 29, 1995.

28.7 Duties of director.

Sec. 7. The director shall provide the officers of the department with suitable uniforms, arms, equipment, quarters, and other articles necessary, and also the expense and means of travel and boarding them, if necessary. The director shall establish and maintain local headquarters in various places, and may do so by agreement, lease, or otherwise, so as to best establish the department throughout the various sections of the state where it will be most efficient in carrying out the purpose of this act, to preserve peace and prevent crime. The director shall fix the location of the various units of the department, prescribe the uniforms and equipment of all members of the department, the character of the training and discipline, and the general policy in respect to the use and employment of all members of the department.

History: 1935, Act 59, Imd. Eff. May 17, 1935;—CL 1948, 28.7;—Am. 1976, Act 7, Imd. Eff. Feb. 11, 1976.

28.7a Repealed. 1964, Act 256, Eff. Aug. 28, 1964.

Compiler's note: The repealed section authorized commissioner of state police to sell certain personal property.

28.7b Quarters and boarding.

Sec. 7b. A person enlisting in the department after the effective date of this amendatory act shall not be furnished quarters and boarding on a permanent basis.

History: Add. 1976, Act 7, Imd. Eff. Feb. 11, 1976.

28.8 Officers; grades; powers and duties; transportation of officers and civilian employees.

Sec. 8. The grades and duties of the officers of the department shall be colonel, lieutenant colonel, major, captain, lieutenant, sergeant, trooper, and policewoman. The officers shall be authorized to carry arms either openly or concealed. Every member of the department shall be subject to orders at any time, the officers shall at all times have the authority to apprehend criminals and preserve law and order. Officers and civilian employees of the department when traveling on duty shall be entitled to transportation upon any railroad, passenger steamboat line, airline, or passenger bus line, upon presentation of a requisition for the transportation signed by the director and the carriers shall be entitled to compensation for transportation furnished out of moneys appropriated for the department.

History: 1935, Act 59, Imd. Eff. May 17, 1935;—CL 1948, 28.8;—Am. 1976, Act 7, Imd. Eff. Feb. 11, 1976.

28.9 Rules and regulations of department adopted by commissioner.

Sec. 9. The commissioner shall make and adopt rules and regulations for the direction, control, discipline and conduct of the members of said department, for promotion on the basis of seniority of service, qualifications being equal, of the officers of the department, for the filing and hearing of charges against such officers and he may make any other rules and regulations for the governing and operation of said department as shall appear to him reasonably necessary to carry out the purposes of this act. He may require any officer or employe, who may receive and/or disburse public funds in the course of his duties, to file a bond conditioned that he will honestly, correctly, and according to law receive, disburse, pay over and/or account for all public moneys coming into his hands, such bond to be approved as to form, amount and surety by the attorney

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general.

History: 1935, Act 59, Imd. Eff. May 17, 1935;—CL 1948, 28.9.

28.10 Repealed. 2002, Act 324, Imd. Eff. May 23, 2002.

Compiler's note: The repealed section pertained to members of department prohibited from taking part in political campaigns.

28.11 Repealed. 1952, Act 253, Eff. Sept. 18, 1952.

Compiler's note: The repealed section provided means for removal from office of commissioner of state police.

28.12 Trial board; members, powers; powers of commissioner as presiding officer.

Sec. 12. A trial board to hear charges against officers of the department consisting of the commissioner and 3 officers from among the 10 commissioned officers of the department, senior in service, shall be appointed by the commissioner. The commissioner shall be the presiding officer thereof and make all necessary rulings during the course of any hearing. He shall also make rules and regulations for the filing of verified written charges against an accused officer, for a due hearing thereon upon not less than 10 days notice and for an opportunity to the officer to produce proof in his defense. Such hearing may be held at any place designated by the commissioner.

The commissioner or the officer acting in his stead as presiding officer of the trial board is empowered to issue subpoenas to compel the attendance of witnesses and the production of evidence in support of charges, and shall issue subpoenas for witnesses for the defense and shall on his own motion if he have knowledge or be informed of other persons having knowledge of the matters charged compel their attendance at the hearing by subpoena. Persons summoned as witnesses before the trial board shall be entitled to witness fees and mileage for traveling, as provided by law for witnesses in courts of record in the county in which the hearing is held, and failure or refusal to obey any such subpoena shall be brought to the attention of the circuit court of the county wherein the hearing is held, and shall be punished by said court as a contempt. Upon written order of the commissioner, any officer appointed or designated to act in his absence as acting commissioner may sit in his place and stead as presiding officer of said trial board. If the charges be proved the trial board shall make a finding of guilty and recommend either removal of the officer or such disciplinary punishment as prescribed by the rules and regulations which, in their opinion, the offense merits; thereupon the commissioner shall direct such removal or punishment. If any officer refuses to abide by any such disciplinary order, the commissioner may by order remove him forthwith. Nothing herein contained shall require a hearing before said board before disciplinary measures may be taken by the commissioner or any commanding officer of a detachment or unit for the punishment of minor infractions of the rules and regulations of the department.

History: 1935, Act 59, Imd. Eff. May 17, 1935;—CL 1948, 28.12.

28.12a Injury to person or property caused by negligent operation of motor vehicle by state police officer or employee; reimbursement.

Sec. 12a. In case of injury to any person, or property damage, or both, caused by the negligent operation of a motor vehicle belonging to the department of state police by an officer or employee of the department of state police, a complaint may be filed with the director of the department of state police. An investigation into the accident shall be made as provided in the rules of the department of state police. If that investigation discloses that the accident was due to the negligence of that officer or employee of the department of state police, and was not due to the negligence of any other person, a report of the investigation shall be filed in the office of the director of the department of state police. After examination of the report and, if in the opinion of the director, reimbursement for the injury to, or property damage, or both, is a proper claim, and if the claim does not exceed $200.00, the director shall make recommendation for payment, payable from the appropriation to the department of state police, and shall submit the claim and recommendation to the state administrative board. Notwithstanding any provision of law to the contrary, if the claim and recommendation are approved by the state administrative board, the claim shall be paid.

History: Add. 1943, Act 181, Eff. July 30, 1943;—CL 1948, 28.12a;—Am. 2002, Act 371, Imd. Eff. May 24, 2002.

28.13 Incumbents; continuation; construction of act.

Sec. 13. Until the governor shall appoint a commissioner as herein provided, the present commissioner of the department of public safety shall continue in office as such commissioner. Nothing herein contained shall be deemed to terminate any commission, appointment, or employment heretofore existing under the provisions of acts hereinafter repealed. All matters and orders pending before or made by any officer or department transferred under this act to the department of Michigan state police shall be deemed to be continued with like status in such department of Michigan state police. All existing appropriations for the

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support and maintenance of any office, department, division, bureau, or branch, transferred under this act, or for the performance of any duties, so transferred to the said department of Michigan state police, are hereby transferred to said department for the support and maintenance of the department of the Michigan state police. Whenever reference is made in any law to the "commissioner of public safety" or to the "department of public safety" such reference shall be construed to mean, respectively, the commissioner of the Michigan state police and department of Michigan state police herein provided for.

History: 1935, Act 59, Imd. Eff. May 17, 1935;—CL 1948, 28.13.

28.14 Disposition of fees.

Sec. 14. All fees or other moneys received by said Michigan state police shall be forwarded to the state treasurer each month and shall by said treasurer be deposited in the state treasury to be disbursed in such manner and for such purposes as may be provided by law.

History: 1935, Act 59, Imd. Eff. May 17, 1935;—CL 1948, 28.14.

28.15 Biennial report of commissioner to governor.

Sec. 15. On or before the first day of January of each year in which a regular session of the legislature is held, the commissioner shall make and file with the governor a report covering the preceding biennial period, covering the activities of the department and the receipts and disbursements made thereby. Said report shall be accompanied by the recommendations of the commissioner with reference to such changes in the laws applying to or affecting the department as the said commissioner may deem expedient. All salaries and expenses hereby authorized shall be paid in the same manner as the salaries and expenses of other state officers and employes are paid.

History: 1935, Act 59, Imd. Eff. May 17, 1935;—CL 1948, 28.15.

28.16 Firearms safety program; public service announcements; "weapon free school zones" defined; availability of program and public service announcements.

Sec. 16. (1) The department shall establish and maintain a firearms safety program to educate children about the dangerous nature and safe handling of firearms. The department shall make the program available to local school districts.

(2) The department shall produce or arrange for the production of public service announcements to educate the public about the need to keep firearms and other weapons securely stored so that they are not accessible to children and the need to operate or use firearms or other weapons in a safe and lawful manner.

(3) The department shall produce or arrange for the production of public service announcements to educate the public about weapon free school zones. As used in this subsection, "weapon free school zone" means that term as defined in section 237a of the Michigan penal code, Act No. 328 of the Public Acts of 1931, being section 750.237a of the Michigan Compiled Laws.

(4) The department shall make the public service announcements described in subsections (2) and (3) available to television and radio stations throughout this state.

History: Add. 1993, Act 321, Eff. Apr. 1, 1994.

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EXECUTIVE REORGANIZATION ORDER
E.R.O. No. 1982-1

28.21 Transfer of public service commission highway enforcement functions to department of state police.

WHEREAS, the Michigan Public Service Commission of the Department of Commerce is vested by law with the authority to appoint inspectors to enforce the laws, rules and regulations relating to motor carrier regulation; and

WHEREAS, much of this Public Service Commission enforcement activity occurs on Michigan streets and highways which are also patrolled by the Department of State Police; and

WHEREAS, it is in the public interests to eliminate duplication and to increase the State's efficiency and effectiveness of service; and

WHEREAS, Article V, Section 2, of the Michigan Constitution of 1963 empowers the Governor to make changes in the organization of the Executive Branch or assignment of functions among its units which are necessary for efficient administration.

NOW, THEREFORE, I, WILLIAM G. MILLIKEN, Governor of the State of Michigan, pursuant to the authority vested in me by Article V, Section 2, of the Constitution of the State of Michigan, do hereby order the following:

Section 1. All the powers, duties, functions and responsibilities of the Public Service Commission pursuant to Sections 238 and 239 of Act No. 380 of the Public Acts of 1965, as amended by Act No. 77 of the Public Acts of 1968, being Sections 16.338 and 16.339 of the Compiled Laws of 1979; Act No. 115 of the Public Acts of 1970, being Section 460.41 of the Compiled Laws of 1979; Act 288 of the Public Acts of 1965, as amended, being Section 286.601 of the Compiled Laws of 1979; and Act 181 of the Public Acts of 1963, as amended, being Sections 480.11 through 480.19 of the Compiled Laws of 1979; are hereby transferred to the Department of State Police.

Section 2. It is the intent of this order to transfer to the Department of State Police only that statutory authority, including rulemaking authority, that is necessary to effectively perform the highway enforcement functions relating to the motor carrier vehicles moving in commerce upon the public highways of the State of Michigan. All other functions and authority, including but not limited to all non-highway related functions, shall be retained by the Public Service Commission.

Section 3. Of the total of 138 positions currently appropriated in fiscal year 1981-82 for motor carrier enforcement related responsibilities, the equivalent of 133 positions are transferred to the Department of State Police to perform the functions set forth above. The equivalent of 5 positions are retained by the Public Service Commission to provide the non-highway enforcement and investigative activity essential to the achievement of comprehensive motor carrier regulation.

Section 4. Except as provided in Section 3, all records, property, personnel and unexpended balances of appropriations, allocations and other funds used, held, employed, available, or to be made available to the Michigan Public Service Commission for the activities transferred to the Department of State Police by this Order are hereby transferred to the Department of State Police.

Section 5. After the effective date of this order, the Department of Commerce and the Department of State Police shall make internal organizational changes as may be administratively necessary to complete the realignment of responsibilities prescribed by this order. It is intended, however, that the personnel changes authorized by this order shall be achieved without adversely affecting the existing rights and interests of individual employees.

In fulfillment of the requirement of Article V, Section 2, of the Constitution of the State of Michigan, the provisions of this Executive Order shall become effective October 1, 1982.

History: 1982, E.R.O. No. 1982-1, Eff. Oct. 1, 1982.

Compiler's note: This section was promulgated January 23, 1982, as Executive Order No. 1982-1 and became effective October 1, 1982.

Administrative rules: R 460.16101 et seq. and R 460.18101 et seq. of the Michigan Administrative Code.

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EXECUTIVE REORGANIZATION ORDER
E.R.O. No. 1989-1

28.31 Transfer of administration and distribution of secondary road patrol and traffic accident prevention funds to office of highway safety planning.

WHEREAS, it is the duty of all local police and peace officers and the duty of the director of the Department of State Police to cooperate with all other state and local law enforcement authorities in the detecting of crime, enforcing traffic laws, the apprehending of criminals, the preservation of law and order throughout the state, and the protection of the public in the use of the highways of this state; and

WHEREAS, it is in the public interest to avoid duplication of effort and to increase the efficiency and effectiveness of law enforcement road patrols; and

WHEREAS, Article 5, Section 2, of the Michigan Constitution of 1963 empowers the Governor to make changes in the organization of the Executive Branch or assignment of functions among its units which are necessary for efficient administration;

NOW, THEREFORE, I, JAMES J. BLANCHARD, Governor of the State of Michigan, pursuant to the powers vested in me by the Michigan Constitution of 1963 and the laws of the State of Michigan, do hereby order the following:

1. All the powers, duties, functions, and responsibilities of the Office of Criminal Justice to administer state funds appropriated for the implementation of secondary road patrols and traffic accident prevention as set forth by Section 77 of Act 313 of the Public Acts of 1982, being Section 51.77 of the Compiled Law of 1979, are hereby transferred to the Office of Highway Safety Planning within the Department of State Police.

2. The Director of the Department of State Police, or a person designated by the director in writing, shall be the state official authorized to enter into the agreements with a county pursuant to Section 77 of Act 313 of the Public Acts of 1982, being Section 51.77 of the Compiled Laws of 1979.

3. Of the total of one (1) position currently appropriated in fiscal year 1988-89 for Office of Criminal Justice related responsibilities, the equivalent of one (1) position is transferred to the Department of State Police to preform the functions set forth above.

4. All records, property, personnel, and unexpended balances of appropriations, allocations and other funds used, held, employed, available, or to be made available to the Office of Criminal Justice for the activities transferred to the Department of State Police by this Order are hereby transferred to the Department of State Police.

5. After the effective date of this Order, the Office of Criminal Justice and the Office of Highway Safety Planning within the Department of State Police shall make internal organizational changes as may be administratively necessary to complete the realignment of responsibilities prescribed by this Order. It is intended, however, that the personnel changes authorized by this Order shall be achieved without adversely affecting the existing rights and interests of individual employees.

History: 1989, E.R.O. No. 1989-1, Eff. Oct. 1, 1989.

Compiler's note: Executive Reorganization Order No. 1989-1 was promulgated May 15, 1989, as Executive Order No. 1989-4 and became effective October 1, 1989.

In the paragraph numbered “3.”, the phrase “to preform the functions set forth” evidently should read “to perform the functions set forth.”

SUBVERSIVE ACTIVITIES INVESTIGATION DIVISION
Act 40 of 1950 (Ex. Sess.)

28.51-28.56 Repealed. 1978, Act 571, Imd. Eff. Jan. 2, 1979.

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EXECUTIVE REORGANIZATION ORDER
E.R.O. No. 1969-1

28.61 Executive reorganization order no. 1969-1; creating office of highway safety planning and designating governor's highway safety program representative.

WHEREAS, the Congress has enacted the Highway Safety Act of 1966, as amended, requiring Michigan to establish a highway safety program designed to reduce traffic accidents and deaths, injuries and property damage resulting therefrom, and

WHEREAS, Act 213 of the Public Acts of 1967 authorizes the Governor to take action necessary to secure the benefits available under the federal Highway Safety Act of 1966; and

WHEREAS, the Federal Highway Safety Act of 1966 requires that the Governor of the State be responsible for the administration of the Michigan highway safety program; and

WHEREAS, the highway safety program has been administered within the Executive Office of the Governor and for reasons of administrative efficiency, the functions performed in this program should be administered within one of the principal departments of the state; and

WHEREAS, there is a need for a unified effort by state and local governments to halt the tragedy of highway accidents;

THEREFORE, I, William G. Milliken, Governor of the State of Michigan, pursuant to the authority vested in me by the Constitution of the State of Michigan and by Act 213 of the Public Acts of 1967 do hereby transfer the highway safety program function from the Executive Office of the Governor to the Department of State Police, and order the establishment of the Office of Highway Safety Planning to be located in the Department of State Police.

I hereby designate the executive director of the Office of Highway Safety Planning as the official representative of the Governor for the administration of the Michigan Highway Safety Program under the Highway Safety Act of 1966 and do hereby order the Director of the Department of State Police to combine the functions of the Office of Highway Safety Planning and the staff functions of the Michigan Safety Commission.

Among the functions and responsibilities of the Office shall be the following:

1. To provide, through use of all available resources, a comprehensive statewide highway safety plan to reduce traffic accidents and deaths, injuries and property damage resulting therefrom, developed in accordance with the highway safety needs and objectives of the State of Michigan and the requirements of National Highway Safety Standards.

2. To apply for and accept grants from the federal government under the provisions of the Highway Safety Act of 1966 and to expend or approve for expenditure such grants in a manner consistent with the Constitution and laws of the State of Michigan.

3. To apply for and accept grants from any public or private source for use in highway safety programs and to expend such grants in a manner consistent with the Constitution and laws of the State of Michigan.

4. To administer a highway safety grants program to state departments and local units of government according to the rules, regulations and procedures established under the Highway Safety Act of 1966 and the laws of the State of Michigan.

5. To assist in the coordination of the highway safety programs of all state departments and agencies, local units of government, and private agencies.

From and after the effective date of this order, all records, property, personnel and unexpended balances of appropriations, allocations, and other funds used, held, employed, available or to be made available to the Office of Highway Safety Planning, are transferred to the Department of State Police.

History: 1969, E.R.O. No. 1969-1, Eff. July 1, 1969.

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STATE ARSON STRIKE FORCE UNIT
Act 170 of 1978

AN ACT to provide for a state arson strike force unit and to prescribe the powers and duties of the strike force unit and the department of state police.

History: 1978, Act 170, Imd. Eff. May 27, 1978.

The People of the State of Michigan enact:

28.71 "Person" defined.

Sec. 1. As used in this act:

(a) "Person" means a natural person, partnership, cooperative, association, private or public corporation, personal representative, receiver, trustee, assignee, or other legal entity.

History: 1978, Act 170, Imd. Eff. May 27, 1978.

28.72 State arson strike force; creation; personnel; powers.

Sec. 2. (1) A state arson strike force unit is created within the department of state police to be comprised of personnel assigned by the director of the department of state police.

(2) The strike force unit is authorized to investigate each case involving a conspiracy to commit arson, a fire which was perpetrated to defraud a person, or any other fire which may involve the act of arson.

History: 1978, Act 170, Imd. Eff. May 27, 1978;—2006, Act 191, Imd. Eff. June 19, 2006.

DEPARTMENT OF PUBLIC SAFETY PENSION, ACCIDENT, AND DISABILITY FUND
Act 251 of 1935

28.101-28.110 Repealed. 1958, Act 91, Eff. Sept. 13, 1958;—1986, Act 182, Eff. Oct. 1, 1986.

A.F.I.S. POLICY COUNCIL ACT
Act 307 of 1988

28.151-28.158 Repealed. 2005, Act 308, Eff. Feb. 1, 2006.

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EXECUTIVE REORGANIZATION ORDER
E.R.O. No. 1998-1

28.161 Creation of criminal justice information systems (CJIS) policy council; transfer of powers and duties of automated fingerprint identification system (AFIS) policy council to CJIS policy council and abolition of AFIS policy council; transfer of powers and duties of law enforcement information network (LEIN) policy council to CJIS policy council and abolition of LEIN policy council.

WHEREAS, Article V, Section 2, of the Constitution of the State of Michigan of 1963 empowers the Governor to make changes in the organization of the Executive Branch or in the assignment of functions among its units which he considers necessary for efficient administration; and

WHEREAS, the Law Enforcement Information Network (L.E.I.N.) Policy Council was established pursuant to Act No. 163 of the Public Acts of 1974 to create policy and promulgate rules regarding the operational procedures to be followed by agencies using the law enforcement information network, to review applications for network terminals and approve or disapprove the applications and the sites for terminal installations and to establish minimum standards for terminal sites and installations; and

WHEREAS, the Automated Fingerprint Identification System (A.F.I.S.) Policy Council was established pursuant to Act No. 307 of the Public Acts of 1988 to, among other things, create policy and promulgate rules regarding the operation and audit procedures to be followed by agencies using the A.F.I.S., to design and provide for statewide identification of individuals using an A.F.I.S., to establish minimum standards for A.F.I.S. sites and installation, to review proposed applications for the A.F.I.S. and approve or disapprove the applications and the sites for system installations and to establish policy and promulgate rules restricting the dissemination of identification information to individuals and agencies; and

WHEREAS, the membership of the L.E.I.N. Policy Council is fully represented on the A.F.I.S. Policy Council; and

WHEREAS, the mission and goals of the L.E.I.N. Policy Council and the A.F.I.S. Policy Council are similar and the technologies and system interaction involved with both L.E.I.N. and A.F.I.S. are closely linked; and

WHEREAS, the functions, duties and responsibilities assigned to the L.E.I.N. Policy Council and the A.F.I.S. Policy Council can be more effectively organized and carried out under the supervision and direction of one governmental body; and

WHEREAS, it is necessary in the interests of efficient administration and effectiveness of government to effect changes in the organization of the Executive Branch of government.

NOW, THEREFORE, I, John Engler, Governor of the State of Michigan, pursuant to the powers vested in me by the Constitution of the State of Michigan of 1963 and the laws of the State of Michigan, do hereby order the following:

1. There is created the Criminal Justice Information Systems (CJIS) Policy Council within the Department of State Police. The council shall exercise its prescribed powers, duties, functions and responsibilities independently of the director of the department. The budgeting, procurement and related management functions of the council shall be performed under the direction and supervision of the director of the department.

2. The CJIS Policy Council shall consist of the following members:

a. The Attorney General or his or her designee;

b. The Secretary of State or his or her designee;

c. The Director of the Department of State Police or his or her designee;

d. The Director of the Department of Corrections or his or her designee;

e. Three representatives of the Department of State Police to be appointed by the Director of the Department of State Police;

f. The Chief of Detroit Police Department or his or her designee;

g. Three representatives of the Michigan Association of Chiefs of Police to be appointed by that association;

h. Four representatives of the Michigan Sheriff's Association to be appointed by that association;

i. Three representatives of the Prosecuting Attorneys Association of Michigan to be appointed by that association;

j. A representative of the Michigan District Judges Association to be appointed by that association;

k. A representative of the Michigan Judges Association to be appointed by that association;

l. The State Court Administrator or his or her designee;

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m. An individual employed in or engaged in the business of private security, who shall be appointed by and serve at the pleasure of the Governor;

n. An individual who represents human services concerns in the state, who shall be appointed by and serve at the pleasure of the Governor; and

o. The executive secretary of the CJIS Policy Council, who shall serve in an ex officio capacity.

3. The Council shall, at its first meeting, elect from its membership a chairperson who shall serve for one year. Elections thereafter shall be held annually. A chairperson may, if reelected, succeed himself or herself. The council shall meet quarterly, during the months of January, April, July and October, and at other times the chairperson considers necessary. A majority of the council members hall constitute a quorum for conducting the business of the council.

4. The council chairperson shall appoint committee chairpersons with the approval of the council. A committee chairperson may succeed himself or herself if reappointed.

5. Council members or their representatives shall serve without compensation, but shall be entitled to actual expenses incurred during attendance at a regular or special council meeting and in traveling to and from a meeting.

6. A council member shall serve a two (2) year term and may succeed himself or herself if reappointed as a member.

7. All the statutory authority, powers, duties, functions and responsibilities, including the functions of rulemaking, budgeting, procurement and related management functions of the A.F.I.S. Policy Council set forth in Act No. 307 of the Public Acts of 1988, as amended, being Sections 28.151 et seq. of the Michigan Compiled Laws, are hereby transferred to the CJIS Policy Council by a Type III transfer, as defined by Section 3 of Act No. 380 of the Public Acts of 1965, as amended, being Section 16.103 of the Michigan Compiled Laws, and the A.F.I.S. Policy Council is abolished.

8. In addition to the aforementioned responsibilities, the CJIS Policy Council shall serve in an advisory capacity to the Director of the Department of State Police on issues related to the development and deploymnet of information management systems that facilitate the rapid exchange of accurate information between the various components of the criminal justice community.

9. All the statutory authority, powers, duties, functions and responsibilities, including the functions of rulemaking, budgeting, procurement and related management functions of the L.E.I.N. Policy Council set forth in Act No. 163 of the Public Acts of 1974, as amended, being Sections 28.211 et seq. of the Michigan Compiled Laws, are hereby transferred to the CJIS Policy Council by a Type III transfer, as defined by Section 3 of Act No. 380 of the Public Acts of 1965, as amended, being Section 16.103 of the Michigan Compiled Laws, and the L.E.I.N. Policy Council is abolished.

10. The Director of the Department of State Police shall provide executive direction and supervision for the implementation of the transfers and shall make internal organizational changes that may be administratively necessary to complete the realignment of responsibilities prescribed by this Order.

11. All records, personnel, property and unexpended balances of appropriations, allocations and other funds used, held, employed, available or to be made available to the A.F.I.S. Policy Council or the L.E.I.N. Policy Council are hereby transferred to the CJIS Policy Council.

12. The Department of Management and Budget shall determine and authorize the most efficient manner possible for handling financial transactions and records in the state's financial management system for the remainder of this fiscal year.

13. All rules, orders, contracts and agreements relating to the assigned functions lawfully adopted prior to the effective date of this Order shall continue to be effective until revised, amended or repealed.

14. Any suit, action or other proceeding lawfully commenced by, against or before any entity affected by this Order shall not abate by reason of the taking effect of this Order. Any suit, action or other proceeding may be maintained by, against or before the appropriate successor of any entity affected by this Order.

In fulfillment of the requirement of Article V, Section 2, of the Constitution of the State of Michigan of 1963, the provisions of this Order shall become effective sixty (60) days after filing.

History: 1998, E.R.O. No. 1998-1, Eff. Apr. 13, 1998.

Compiler's note: In the paragraph numbered “3.”, the phrase “members hall constitute a quorum” evidently should read “members shall constitute a quorum.”

In the paragraph numbered “8.”, the word “deploymnet” evidently should read “deployment.”

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EXECUTIVE REORGANIZATION ORDER
E.R.O. No. 2008-2

28.162 Transfer of powers and duties of criminal justice information systems policy council to department of state police by type III transfer; abolishment of criminal justice information systems policy council.

WHEREAS, Section 1 of Article V of the Michigan Constitution of 1963 vests the executive power of the State of Michigan in the Governor;

WHEREAS, Section 2 of Article V of the Michigan Constitution of 1963 empowers the Governor to make changes in the organization of the executive branch of state government or in the assignment of functions among its units that the Governor considers necessary for efficient administration;

WHEREAS, there is a continuing need to reorganize state functions to assure efficient administration and effectiveness of government;

WHEREAS, abolishing the Criminal Justice Information Systems Policy Council will reduce governmental functions and contribute to a smaller and more efficient state government;

NOW, THEREFORE, I, Jennifer M. Granholm, Governor of the State of Michigan, by virtue of the power and authority vested in the Governor by the Michigan Constitution of 1963 and Michigan law order:

I. DEFINITIONS

As used in this Order:

A. "Criminal Justice Information Systems Policy Council" or "Council" means the council established within the Department of State Police under Executive Order 1998-1, MCL 28.161, and Section 2 of the C.J.I.S. Policy Council Act, 1974 PA 163, MCL 28.211 to 28.215.

B. "Department of State Police" or "Department" means the principal department of state government created under Section 2 of 1935 PA 59, MCL 28.2, and Section 150 of the Executive Organization Act of 1965, 1965 PA 380, MCL 16.250.

C. "State Budget Director" means the individual appointed by the Governor pursuant to Section 321 of The Management and Budget Act, 1984 PA 431, MCL 18.1321.

D. "Type III transfer" means that term as defined under Section 3 of the Executive Organization Act of 1965, 1965 PA 380, MCL 16.103.

II. TRANSFER

A. All of the authority, powers, duties, functions, records, personnel, property, unexpended balances of appropriations, allocations, or other funds of the Criminal Justice Information Systems Policy Council are transferred by Type III transfer to the Department of State Police.

B. The Criminal Justice Information Systems Policy Council is abolished.

III. IMPLEMENTATION OF TRANSFER

A. The Director of the Department shall provide executive direction and supervision for the implementation of the transfer under this Order and shall make internal organizational changes as necessary to complete the transfer.

B. The functions transferred under this Order shall be administered by the Director of the Department in a manner that promotes efficient administration.

C. All records, property, and unexpended balances of appropriations, allocations, and other funds used, held, employed, available, or to be made available to the Council for the activities, powers, duties, functions, and responsibilities transferred under this Order are transferred to the Department.

D. The State Budget Director shall determine and authorize the most efficient manner possible for handling financial transactions and records in the state's financial management system necessary for the implementation of this Order.

IV. MISCELLANEOUS

A. All rules, orders, contracts, and agreements relating to the functions transferred under this Order lawfully adopted prior to the effective date of this Order shall continue to be effective until revised, amended, repealed, or rescinded.

B. This Order shall not abate any suit, action, or other proceeding lawfully commenced by, against, or before any entity affected under this Order. Any suit, action, or other proceeding may be maintained by, against, or before the appropriate successor of any entity affected under this Order.

C. The invalidity of any portion of this Order shall not affect the validity of the remainder of the Order, which may be given effect without any invalid portion. Any portion of this Order found invalid by a court or other entity with proper jurisdiction shall be severable from the remaining portions of this Order.

In fulfillment of the requirements under Section 2 of Article V of the Michigan Constitution of 1963, the

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provisions of this Order are effective September 21, 2008 at 12:01 a.m.

History: E.R.O. No. 2008-2, Eff. Sept. 21, 2008.

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DNA IDENTIFICATION PROFILING SYSTEM ACT
Act 250 of 1990

AN ACT to provide for a DNA identification profiling system; to provide for the collection of samples from certain prisoners, convicted offenders, and juvenile offenders and the analysis of those samples; and to prescribe the powers and duties of certain state departments and county agencies.

History: 1990, Act 250, Eff. June 17, 1994;—Am. 1996, Act 508, Imd. Eff. Jan. 9, 1997;—Am. 1998, Act 522, Imd. Eff. Jan. 12, 1999.

The People of the State of Michigan enact:

28.171 Short title.

Sec. 1. This act shall be known and may be cited as the "DNA identification profiling system act".

History: 1990, Act 250, Eff. June 17, 1994.

28.172 Definitions.

Sec. 2. As used in this act:

(a) "Department" means the department of state police.

(b) "DNA identification profile" means the results of the DNA identification profiling of a sample.

(c) "DNA identification profiling" means a validated scientific method of analyzing components of deoxyribonucleic acid molecules in a biological specimen to determine a match or a nonmatch between a reference sample and an evidentiary sample.

(d) "Felony" means a violation of a penal law of this state for which the offender may be punished by imprisonment for more than 1 year or an offense expressly designated by law to be a felony.

(e) "Investigating law enforcement agency" means the law enforcement agency responsible for the investigation of the offense for which the individual is convicted. Investigating law enforcement agency includes the county sheriff but does not include a probation officer employed by the department of corrections.

(f) "Sample" means a portion of an individual's blood, saliva, or tissue collected from the individual.

History: 1990, Act 250, Eff. June 17, 1994;—Am. 1996, Act 508, Imd. Eff. Jan. 9, 1997;—Am. 2001, Act 88, Eff. Jan. 1, 2002.

28.173 Rules.

Sec. 3. The department shall promulgate rules under the administrative procedures act of 1969, 1969 PA 306, MCL 24.201 to 24.328, to implement this act, including, but not limited to, rules governing all of the following:

(a) The method of collecting samples in a medically approved manner by qualified persons and the types and number of samples to be collected by the following:

(*i*) The department of corrections from certain prisoners under section 33d of 1953 PA 232, MCL 791.233d.

(*ii*) Law enforcement agencies from certain convicted offenders under section 520m of the Michigan penal code, 1931 PA 328, MCL 750.520m, or certain juveniles under section 18k of chapter XIIA of 1939 PA 288, MCL 712A.18k.

(*iii*) The family independence agency or a county juvenile agency, as applicable, from certain juveniles under section 7a of the youth rehabilitation services act, 1974 PA 150, MCL 803.307a, or section 5a of the juvenile facilities act, 1988 PA 73, MCL 803.225a. As used in this subparagraph, "county juvenile agency" means that term as defined in section 2 of the county juvenile agency act.

(b) Distributing blood specimen vials, mailing tubes, and labels and instructions for collecting samples.

(c) Storing and transmitting to the department the samples described in subdivision (a).

(d) The DNA identification or genetic marker profiling of samples described in subdivision (a).

(e) The development, in cooperation with the federal bureau of investigation and other appropriate persons, of a system of filing, cataloging, retrieving, and comparing DNA identification profiles and computerizing this system.

(f) Protecting the privacy interests of individuals whose samples are analyzed under this act.

History: 1990, Act 250, Eff. Sept. 1, 1994;—Am. 1994, Act 166, Imd. Eff. June 17, 1994;—Am. 1996, Act 508, Imd. Eff. Jan. 9, 1997;—Am. 1998, Act 522, Imd. Eff. Jan. 12, 1999.

Administrative rules: R 28.5051 et seq. of the Michigan Administrative Code.

28.173a DNA identification profiling; refusal to supply samples as misdemeanor; existing

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sample.

Sec. 3a. (1) An individual required by law to provide samples for DNA identification profiling who refuses to provide or resists providing those samples is guilty of a misdemeanor punishable by imprisonment for not more than 1 year or a fine of not more than $1,000.00, or both. The individual shall be advised that his or her resistance or refusal to provide samples described in this subsection is a misdemeanor.

(2) If at the time an individual who is required by law to provide samples for DNA identification profiling is convicted the investigating law enforcement agency or the department already has a sample from the individual that meets the requirements of the rules promulgated under this act, the individual is not required to provide another sample.

History: Add. 2001, Act 88, Eff. Jan. 1, 2002.

28.174 Developing capability of conducting DNA identification and genetic marker profiling.

Sec. 4. The department of state police shall work with the federal bureau of investigation and other appropriate persons to develop the capability of conducting DNA identification and genetic marker profiling at department of state police crime laboratories. For this purpose, the department shall acquire, adapt, or construct the appropriate facilities, acquire the necessary equipment and supplies, evaluate and select analytic techniques and validate the chosen techniques, and obtain training for department of state police personnel.

History: 1990, Act 250, Eff. June 17, 1994.

28.175 Repealed. 1996, Act 508, Imd. Eff. Jan. 9, 1997.

Compiler's note: The repealed section pertained to appointment, composition, and duties of DNA advisory committee.

28.176 DNA identification profile; retention; requirements.

Sec. 6. (1) The department shall permanently retain a DNA identification profile of an individual obtained from a sample in the manner prescribed by the department under this act if any of the following apply:

(a) The individual is found responsible for a violation of section 83, 91, 316, 317, or 321 of the Michigan penal code, 1931 PA 328, MCL 750.83, 750.91, 750.316, 750.317, and 750.321, or a violation or attempted violation of section 349, 520b, 520c, 520d, 520e, or 520g of the Michigan penal code, 1931 PA 328, MCL 750.349, 750.520b, 750.520c, 750.520d, 750.520e, and 750.520g, or a violation of section 167(1)(c) or (f) or 335a of the Michigan penal code, 1931 PA 328, MCL 750.167 and 750.335a, or a local ordinance substantially corresponding to section 167(1)(c) or (f) or 335a of the Michigan penal code, 1931 PA 328, MCL 750.167 and 750.335a.

(b) The individual is convicted of a felony or attempted felony, or any of the following misdemeanors, or local ordinances that are substantially corresponding to the following misdemeanors:

(*i*) A violation of section 145a of the Michigan penal code, 1931 PA 328, MCL 750.145a, enticing a child for immoral purposes.

(*ii*) A violation of section 167(1)(c), (f), or (i) of the Michigan penal code, 1931 PA 328, MCL 750.167, disorderly person by window peeping, engaging in indecent or obscene conduct in public, or loitering in a house of ill fame or prostitution.

(*iii*) A violation of section 335a of the Michigan penal code, 1931 PA 328, MCL 750.335a, indecent exposure.

(*iv*) A violation of section 451 of the Michigan penal code, 1931 PA 328, MCL 750.451, first and second prostitution violations.

(*v*) A violation of section 454 of the Michigan penal code, 1931 PA 328, MCL 750.454, leasing a house for purposes of prostitution.

(*vi*) A violation of section 462 of the Michigan penal code, 1931 PA 328, MCL 750.462, female under the age of 17 in a house of prostitution.

(2) The DNA profiles of DNA samples received under this section shall only be disclosed as follows:

(a) To a criminal justice agency for law enforcement identification purposes.

(b) In a judicial proceeding as authorized or required by a court.

(c) To a defendant in a criminal case if the DNA profile is used in conjunction with a charge against the defendant.

(d) For an academic, research, statistical analysis, or protocol developmental purpose only if personal identifications are removed.

(3) Notwithstanding subsection (1), if at the time the individual is convicted of or found responsible for the violation the investigating law enforcement agency or the department of state police already has a sample from the individual that meets the requirements of this act, the individual is not required to provide another sample or pay the fee required under subsection (5).

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(4) The county sheriff or the investigating law enforcement agency as ordered by the court shall provide for collecting the samples required to be provided under subsection (1) in a medically approved manner by qualified persons using supplies provided by the department of state police and shall forward those samples and any samples described in subsection (1) that were already in the agency's possession to the department of state police. The collecting and forwarding of samples shall be done in the manner required under this act. A sample shall be collected by the county sheriff or the investigating law enforcement agency after conviction or a finding of responsibility but before sentencing or disposition as ordered by the court and promptly transmitted to the department of state police. This subsection does not preclude a law enforcement agency or state agency from obtaining a sample at or after sentencing or disposition.

(5) Until October 1, 2003, the court shall order each individual found responsible for or convicted of 1 or more crimes listed in subsection (1) to pay an assessment of $60.00. The assessment required under this subsection is in addition to any fine, costs, or other assessments imposed by the court.

(6) An assessment required under subsection (5) shall be ordered upon the record and shall be listed separately in the adjudication order, judgment of sentence, or order of probation.

(7) After reviewing a verified petition by an individual against whom an assessment is imposed under subsection (5), the court may suspend payment of all or part of the assessment if it determines the individual is unable to pay the assessment.

(8) The court that imposes the assessment prescribed under subsection (5) may retain 10% of all assessments or portions of assessments collected for costs incurred under this section and shall transmit that money to its funding unit. On the last day of each month, the clerk of the court shall transmit the assessments or portions of assessments collected under this section as follows:

(a) Twenty-five percent to the county sheriff or other investigating law enforcement agency that collected the DNA sample as designated by the court to defray the costs of collecting DNA samples.

(b) Until October 1, 2003, 65% to the department of treasury for the department's forensic science division to defray the costs associated with the requirements of DNA profiling and DNA retention prescribed under this act.

(c) Beginning October 1, 2003, 65% to the state treasurer for deposit in the justice system fund created in section 181 of the revised judicature act of 1961, 1961 PA 236, MCL 600.181.

(9) Beginning December 31, 2002, the director of the department shall report by December 31 of each year concerning the rate of DNA sample collection, DNA identification profiling, retention and compilation of DNA identification profiles, and the collection of assessments required under subsection (5) to all of the following:

(a) The standing committees of the senate and house of representatives concerned with DNA sample collection and retention.

(b) The house of representatives appropriations subcommittee on state police and military affairs.

(c) The senate appropriations subcommittee on state police.

(10) If a sample was collected under subsection (1) from an individual who does not have more than 1 conviction, and that conviction was reversed by an appellate court, the individual may petition the sentencing court to order the disposing of the sample collected and DNA identification profile record for that conviction in the manner provided in subsections (12) and (13). The sentencing court shall only enter the order upon a finding that the individual has proven by clear and convincing evidence that the conviction was reversed based upon the great weight of the evidence, specifically, that there was overwhelming evidence against the verdict resulting in a miscarriage of justice.

(11) Any other DNA identification profile obtained by the department shall not be permanently retained by the department but shall be retained only as long as it is needed for a criminal investigation or criminal prosecution.

(12) If the state police forensic laboratory determines after analysis that a sample has been submitted by an individual who has been eliminated as a suspect in a crime, the laboratory shall dispose of the sample and the DNA identification profile record in the following manner:

(a) The laboratory shall dispose of the sample in compliance with section 13811 of the public health code, 1978 PA 368, MCL 333.13811.

(b) The laboratory shall dispose of the sample and the DNA identification profile record in the presence of a witness.

(13) After disposal in accordance with subsection (12), the laboratory shall make and keep a written record of the disposal, signed by the individual who witnessed the disposal.

History: 1990, Act 250, Eff. Sept. 1, 1994;—Am. 1996, Act 508, Imd. Eff. Jan. 9, 1997;—Am. 2000, Act 30, Imd. Eff. Mar. 15, 2000;—Am. 2001, Act 87, Eff. Jan. 1, 2002;—Am. 2003, Act 76, Eff. Oct. 1, 2003.

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28.177, 28.178 Repealed. 1994, Act 166, Imd. Eff. June 17, 1994.

Compiler's note: The repealed sections pertained to conditional effective dates.

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METHAMPHETAMINE REPORTING ACT
Act 262 of 2006

AN ACT to create the methamphetamine reporting act; to prescribe the powers and duties of certain state and local departments and agencies; to require certain reports by certain persons; and to prohibit the disclosure of certain information under certain circumstances.

History: 2006, Act 262, Eff. Oct. 1, 2006.

The People of the State of Michigan enact:

28.191 Short title.

Sec. 1. This act shall be known and may be cited as the "methamphetamine reporting act".

History: 2006, Act 262, Eff. Oct. 1, 2006.

28.192 Methamphetamine; manufacture, use, possession, and distribution; compilation of information; entities providing information; procedures to prevent duplication; manner of reporting; disclosure; confidentiality.

Sec. 2. (1) The department shall compile information regarding methamphetamine manufacture, use, possession, and distribution in this state, as provided under this act.

(2) The department shall obtain information for purposes of subsection (1) from all of the following:

(a) The department.

(b) The departments of community health, human services, natural resources, environmental quality, and corrections.

(c) Each local police agency in this state. As used in this subdivision, "local police agency" means all of the following:

(*i*) The police department of a city, village, or township.

(*ii*) The county sheriff.

(*iii*) The police department or public safety department of a hospital, community college, college, or university.

(3) The department shall provide, and shall require each entity described in subsection (2) to provide to the department, information regarding all of the following, as applicable:

(a) The name and address of the reporting entity.

(b) Whether the incident involved primarily the manufacture, possession, use, or distribution of methamphetamine.

(c) The city, village, or township and the county in which the incident occurred.

(d) Whether an individual less than 18 years of age was present at the scene when the incident took place.

(4) The department shall implement procedures to ensure that information provided by the entities described in subsection (2) is coordinated to prevent duplicative information from being obtained.

(5) Each agency described in subsection (2) shall report the information required under subsection (3) to the department in the manner required by the department.

(6) This section does not require or authorize the disclosure of information that is privileged or otherwise restricted by law.

(7) Except as provided in section 4, information submitted to the department under this act by a state or local department or agency is confidential and is not subject to disclosure under the freedom of information act, 1976 PA 442, MCL 15.231 to 15.246.

History: 2006, Act 262, Eff. Oct. 1, 2006.

28.193 Report to legislature; availability to public.

Sec. 3. (1) The department shall file a written report not later than April 1 of each year with the secretary of the senate and the clerk of the house of representatives using the information obtained under section 2 identifying trends in methamphetamine manufacture, use, and distribution in this state and making recommendations to the legislature regarding possible solutions to those problems.

(2) The department shall make a copy of the report filed under subsection (1) available to the public on the department's website.

History: 2006, Act 262, Eff. Oct. 1, 2006.

28.194 Information to be provided to federal department.

Sec. 4. The department shall provide information obtained under this act to the United States department of

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justice or an entity designated by the United States department of justice for receiving that information, in the manner required by the United States department of justice or that entity, for the purpose of obtaining federal funds.

History: 2006, Act 262, Eff. Oct. 1, 2006.

28.195 Rules.

Sec. 5. The department may promulgate rules under the administrative procedures act of 1969, 1969 PA 306, MCL 24.201 to 24.328, to implement this act.

History: 2006, Act 262, Eff. Oct. 1, 2006.

28.196 "Department" defined.

Sec. 6. As used in this act, "department" means the department of state police.

History: 2006, Act 262, Eff. Oct. 1, 2006.

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CERTIFIED REPRODUCTIONS OF STATE POLICE RECORDS
Act 79 of 1939

AN ACT to authorize the use and declare the effect of certified reproductions of the records and papers, and certification of no records and papers, in the files of the department of state police in judicial and other proceedings.

History: 1939, Act 79, Eff. Sept. 29, 1939;—Am. 1941, Act 42, Eff. Jan. 10, 1942;—Am. 1992, Act 194, Imd. Eff. Oct. 5, 1992.

The People of the State of Michigan enact:

28.201 Certified reproductions of state police records admissible as evidence.

Sec. 1. A reproduction of a record or paper in the files of the department of state police, made in a medium pursuant to the records media act, or a reproduction consisting of a printout or other output readable by sight from such a medium, certified as a true reproduction by the director of the department of state police, is admissible as evidence in all cases equally and with like effect as the original. A statement, similarly certified as true by the director of the department of state police, that no record or paper is in the files of the department of state police with respect to a particular matter is admissible as evidence in all cases equally and with like effect as testimony to that effect by a member or employee of the department of state police.

History: 1939, Act 79, Eff. Sept. 29, 1939;—Am. 1941, Act 42, Eff. Jan. 10, 1942;—CL 1948, 28.201;—Am. 1992, Act 194, Imd. Eff. Oct. 5, 1992.

28.202 Construction of act.

Sec. 2. This act shall be construed to supplement the law of this state with respect to evidence and its admissibility.

History: 1939, Act 79, Eff. Sept. 29, 1939;—CL 1948, 28.202.

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C.J.I.S. POLICY COUNCIL ACT
Act 163 of 1974

AN ACT to provide for the creation of a criminal justice information systems policy council; to provide for the establishment of policy and promulgation of rules governing access, use, and disclosure of information in criminal justice information systems; to provide for the reimbursement of expenses of council members; and to provide for penalties.

History: 1974, Act 163, Eff. Apr. 1, 1975;—Am. 2005, Act 309, Eff. Feb. 1, 2006.

The People of the State of Michigan enact:

28.211 Short title.

Sec. 1. This act shall be known and may be cited as the "C.J.I.S. policy council act".

History: 1974, Act 163, Eff. Apr. 1, 1975;—Am. 2005, Act 309, Eff. Feb. 1, 2006.

28.211a Definitions.

Sec. 1a. As used in this act:

(a) "Council" means the criminal justice information policy council created in section 2.

(b) "Nonpublic information" means information to which access, use, or dissemination is restricted by a law or rule of this state or the United States.

History: Add. 2005, Act 309, Eff. Feb. 1, 2006.

28.212 Criminal justice information policy council; creation; membership; terms.

Sec. 2. (1) The criminal justice information policy council is created in the department of state police. The council is composed of the following members:

(a) The attorney general or his or her designee.

(b) The secretary of state or his or her designee.

(c) The director of the department of corrections or his or her designee.

(d) The chief of the Detroit police department or his or her designee.

(e) The director of the department of state police or his or her designee.

(f) Three representatives of the department of state police appointed by the director of the department of state police.

(g) Three representatives of the Michigan association of chiefs of police appointed by that association.

(h) Four representatives of the Michigan sheriffs' association appointed by that association.

(i) Three representatives of the prosecuting attorneys association of Michigan appointed by that association.

(j) A representative of the Michigan district judges association appointed by that association.

(k) A representative of the Michigan judges association appointed by that association.

(*l*) The state court administrator or his or her designee.

(m) An individual appointed by and serving at the pleasure of the governor who is employed in or engaged in the private security business.

(n) An individual appointed by and serving at the pleasure of the governor who represents human services concerns in this state.

(o) The director of the department of information technology or his or her designee.

(2) The appointed members of the council shall serve 2-year terms and may be reappointed.

History: 1974, Act 163, Eff. Apr. 1, 1975;—Am. 2005, Act 309, Eff. Feb. 1, 2006.

28.213 Council; chairperson; election; meeting; compensation; quorum.

Sec. 3. (1) The council, at its first meeting, shall elect from its membership a chairperson, who shall serve for 1 year. An election for chairperson shall be held annually. A chairperson, if reelected, may succeed himself or herself. The council shall meet quarterly during the months of January, April, July, and October or more frequently at the call of the chairperson.

(2) Council members shall serve without compensation, but are entitled to actual expenses incurred during attendance at a regular or special council meeting and in traveling to and from a meeting.

(3) A majority of council members constitute a quorum for conducting the business of the council.

History: 1974, Act 163, Eff. Apr. 1, 1975;—Am. 2005, Act 309, Eff. Feb. 1, 2006.

28.213a Council; powers, duties, functions, and responsibilities.

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Sec. 3a. (1) The council shall exercise its prescribed powers, duties, functions, and responsibilities independently of the director of the department of state police. The budgeting, procurement, and related management functions of the council shall be performed under the direction and supervision of the director of the department of state police.

(2) The executive secretary of the council shall be appointed by the director of the department of state police subject to the approval of the council.

History: Add. 2005, Act 309, Eff. Feb. 1, 2006.

28.214 Council; powers and duties; fingerprints; disclosure of information; violation; penalty.

Sec. 4. (1) The council shall do all of the following:

(a) Establish policy and promulgate rules governing access, use, and disclosure of information in criminal justice information systems, including the law enforcement information network, the automated fingerprint information system, and other information systems related to criminal justice or law enforcement. The policy and rules shall do all of the following:

(*i*) Ensure access to information obtained by a federal, state, or local governmental agency to administer criminal justice or enforce any law.

(*ii*) Ensure access to information provided by the law enforcement information network or the automated fingerprint identification system by a governmental agency engaged in the enforcement of child support laws, child protection laws, or vulnerable adult protection laws.

(*iii*) Authorize a fire chief of an organized fire department or his or her designee to request and receive information obtained through the law enforcement information network by a law enforcement agency for the following purposes:

(A) A preemployment criminal convictions history.

(B) A preemployment driving record.

(C) Vehicle registration information for vehicles involved in a fire or hazardous materials incident.

(*iv*) Authorize a public or private school superintendent, principal, or assistant principal to receive vehicle registration information, of a vehicle within 1,000 feet of school property, obtained through the law enforcement information network by a law enforcement agency.

(*v*) Establish fees for access, use, or dissemination of information from criminal justice information systems.

(b) Review applications for C.J.I.S. access and approve or disapprove the applications and the sites. If an application is disapproved, the applicant shall be notified in writing of the reasons for disapproval.

(c) Establish minimum standards for equipment and software and its installation.

(d) Advise the governor on issues concerning the criminal justice information systems.

(2) A person having direct access to nonpublic information in the information systems governed by this act shall submit a set of fingerprints for comparison with state and federal criminal history records to be approved for access pursuant to the C.J.I.S. security policy. A report of the comparison shall be provided to that person's employer.

(3) A person shall not access, use, or disclose nonpublic information governed under this act for personal use or gain.

(4) The attorney general or his or her designee, a prosecuting attorney, or the court, in a criminal case, may disclose to the defendant or the defendant's attorney of record information pertaining to that defendant that was obtained from the law enforcement information system.

(5) A person shall not disclose information governed under this act in a manner that is not authorized by law or rule.

(6) A person who intentionally violates subsection (3) or (5) is guilty of a crime as follows:

(a) For a first offense, the person is guilty of a misdemeanor punishable by imprisonment for not more than 93 days or a fine of not more than $500.00, or both.

(b) For a second or subsequent offense, the person is guilty of a felony punishable by imprisonment for not more than 4 years or a fine of not more than $2,000.00, or both.

History: 1974, Act 163, Eff. Apr. 1, 1975;—Am. 1998, Act 82, Eff. July 1, 1998;—Am. 1998, Act 458, Imd. Eff. Jan. 4, 1999;—Am. 1998, Act 459, Imd. Eff. Jan. 4, 1999;—Am. 2000, Act 320, Imd. Eff. Oct. 25, 2000;—Am. 2005, Act 308, Eff. Feb. 1, 2006;—Am. 2005, Act 311, Eff. Feb. 1, 2006.

Administrative rules: R 28.5101 et seq. of the Michigan Administrative Code.

28.215 Access to information; powers of council.

Sec. 5. The council may do any of the following:

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(a) Authorize access to public record information to enhance public safety or criminal justice, as permitted by law.

(b) Suspend or deny the use of, and access to, information or remove access from an agency if the agency violates policies or promulgated rules of the council.

(c) Suspend or deny direct access to information to an individual who violates this act, policies, or promulgated rules of the council.

History: 1974, Act 163, Eff. Apr. 1, 1975;—Am. 2005, Act 308, Eff. Feb. 1, 2006.

Administrative rules: R 28.5101 et seq. of the Michigan Administrative Code.

28.216 Repealed. 2005, Act 308, Eff. Feb. 1, 2006.

Compiler's note: The repealed section pertained to purchase of hardware and software.

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MICHIGAN TRAINING SCHOOL FOR PEACE OFFICERS
Act 211 of 1925

AN ACT to authorize the department of public safety to establish and conduct a training school to be known as the Michigan training school for peace officers for the instruction of law enforcing officers.

History: 1925, Act 211, Eff. Aug. 27, 1925;—Am. 1931, Act 322, Imd. Eff. June 16, 1931.

The People of the State of Michigan enact:

28.221 Training school for peace officers; creation, location, subjects.

Sec. 1. The department of public safety is hereby authorized to establish and conduct a school for the instruction of law enforcing officers of this state and of the several counties, townships, cities and villages thereof, such school to be known as the Michigan training school for peace officers and to be conducted and the sessions and periods thereof to be held at East Lansing and at such other places in the state as the commissioner of public safety shall designate. Provision shall be made for instruction in the following subjects and such others as the commissioner of public safety shall deem expedient.

(a) Identification of criminals and fingerprinting;
(b) Methods of crime investigation;
(c) Rules of criminal evidence;
(d) Presentation of cases in courts;
(e) Making of complaints and securing of criminal warrants;
(f) Securing and use of search warrants;
(g) Enforcement of general criminal laws;
(h) Small arms instruction;
(i) Regulation of traffic and uniformity in enforcement;
(j) First aid;
(k) Ethics of the police profession;
(*l*) Courtesy in performance of duty;
(m) Jui Jitsu;
(n) Extent of police authority;
(o) Confessions and statements.

History: 1925, Act 211, Eff. Aug. 27, 1925;—CL 1929, 563;—Am. 1931, Act 322, Imd. Eff. June 16, 1931;—CL 1948, 28.221.

28.222 Training school; instructors and students, expenses.

Sec. 2. The commissioner of public safety shall appoint the instructor or instructors of such school and may call upon members of any state department or any instructor or professor in any state educational institution, to act as instructor or lecturer in such school, and may pay the reasonable expenses of such person while in attendance. The legislative body of any county, township, city or village may authorize the attendance at such school of any law enforcing officer under the jurisdiction of such county, township, city or village, and may provide for the payment of the expenses of such person while in attendance which payment shall be made out of the general fund of such county, township, city or village.

History: 1925, Act 211, Eff. Aug. 27, 1925;—CL 1929, 564;—Am. 1931, Act 322, Imd. Eff. June 16, 1931;—CL 1948, 28.222.

28.223 Training school; students, lodging.

Sec. 3. The department of public safety may provide board and lodging for persons in attendance at such school, the cost thereof to be borne by the student or by the county, township, city or village authorizing his attendance at such school.

History: 1925, Act 211, Eff. Aug. 27, 1925;—CL 1929, 565;—CL 1948, 28.223.

28.224 Training school; diplomas.

Sec. 4. To each person satisfactorily completing the course of study prescribed, the commissioner of public safety shall issue a certificate of graduation or diploma stating that the holder has graduated from the Michigan training school for peace officers.

History: 1925, Act 211, Eff. Aug. 27, 1925;—CL 1929, 566;—Am. 1931, Act 322, Imd. Eff. June 16, 1931;—CL 1948, 28.224.

28.225 Training school; municipal police protection during operation of school.

Sec. 5. The commissioner of public safety may upon the written request of the legislative body of any county, township, city or village sending officers to said school, for assistance during the absence of its

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regular officers while in attendance at said school, furnish members of the department of public safety, without expense to such county, township, city or village. Such members of the department of public safety, when so assigned, shall be under the direction and authority of the chief law enforcing officer of the county, township, city or village in which they are serving.

History: Add. 1931, Act 322, Imd. Eff. June 16, 1931;—CL 1948, 28.225.

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BUREAU OF CRIMINAL IDENTIFICATION AND RECORDS
Act 289 of 1925

AN ACT to create and maintain a fingerprint identification and criminal history records division within the department of state police; to require peace officers, persons in charge of certain institutions, and others to make reports respecting juvenile offenses, crimes, and criminals to the state police; to require the fingerprinting of an accused by certain persons; and to provide penalties and remedies for a violation of this act.

History: 1925, Act 289, Imd. Eff. May 13, 1925;—Am. 1931, Act 197, Imd. Eff. May 28, 1931;—Am. 1986, Act 231, Eff. June 1, 1987;—Am. 1988, Act 40, Eff. June 1, 1988;—Am. 2001, Act 187, Eff. Apr. 1, 2002.

The People of the State of Michigan enact:

28.241 Department of state police; responsibility for criminal and juvenile identification and records; apparatus and materials.

Sec. 1. The department of state police is responsible for criminal and juvenile identification and records. The department shall be supplied with the necessary apparatus and materials for collecting, filing, and preserving criminal and juvenile records filed with the department.

History: 1925, Act 289, Imd. Eff. May 13, 1925;—CL 1929, 567;—Am. 1931, Act 197, Imd. Eff. May 28, 1931;—CL 1948, 28.241;—Am. 1986, Act 231, Eff. June 1, 1987;—Am. 1988, Act 40, Eff. June 1, 1988;—Am. 2001, Act 187, Eff. Apr. 1, 2002.

28.241a Definitions.

Sec. 1a. As used in this act:

(a) “Arrest card” means a paper form or an electronic format prescribed by the department that facilitates collecting and compiling criminal and juvenile arrest history record information, including fingerprint images.

(b) “Commanding officer” means the department of state police employee in charge of the criminal justice information center or its successor administrative unit.

(c) “Criminal history record information” means name; date of birth; fingerprints; photographs, if available; personal descriptions including identifying marks, scars, amputations, and tattoos; aliases and prior names; social security number, driver's license number and other identifying numbers; and information on misdemeanor arrests and convictions and felony arrests and convictions.

(d) “Department” means the department of state police.

(e) “Felony” means a violation of a penal law of this state for which the offender may be punished by imprisonment for more than 1 year or an offense expressly designated by law to be a felony.

(f) “Fingerprint impressions” means fingerprint images recorded in a manner prescribed by the department.

(g) “Juvenile history record information” means name; date of birth; fingerprints; photographs, if available; personal descriptions including identifying marks, scars, amputations, and tattoos; aliases and prior names; social security number, driver's license number and other identifying numbers; and information on juvenile offense arrests and adjudications or convictions.

(h) “Juvenile offense” means an offense committed by a juvenile that, if committed by an adult, would be a felony, a criminal contempt conviction under section 2950 or 2950a of the revised judicature act of 1961, 1961 PA 236, MCL 600.2950 and 600.2950a, a criminal contempt conviction for a violation of a foreign protection order that satisfies the conditions for validity provided in section 2950i of the revised judicature act of 1961, 1961 PA 236, MCL 600.2950i, or a misdemeanor.

(i) “Law enforcement agency” means the police department of a city, township, or village, the sheriff's department of a county, the department, or any other governmental law enforcement agency of this state.

(j) “Misdemeanor” means either of the following:

(*i*) A violation of a penal law of this state that is not a felony or a violation of an order, rule, or regulation of a state agency that is punishable by imprisonment or a fine that is not a civil fine.

(*ii*) A violation of a local ordinance that substantially corresponds to state law and that is not a civil infraction.

History: Add. 1986, Act 231, Eff. June 1, 1987;—Am. 1988, Act 40, Eff. June 1, 1988;—Am. 1994, Act 196, Eff. Oct. 1, 1994;—Am. 1996, Act 259, Eff. Jan. 1, 1997;—Am. 2001, Act 187, Eff. Apr. 1, 2002.

28.242 Duties of commanding officer.

Sec. 2. (1) The commanding officer shall procure and file for purposes of criminal identification criminal history record information on all persons who have been convicted within this state of either a felony or a misdemeanor, or who have been convicted of criminal contempt under section 2950 or 2950a of the revised

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judicature act of 1961, 1961 PA 236, MCL 600.2950 and 600.2950a, or criminal contempt for a violation of a foreign protection order that satisfies the conditions for validity provided in section 2950i of the revised judicature act of 1961, 1961 PA 236, MCL 600.2950i. The commanding officer shall procure and file for purposes of juvenile identification juvenile history record information on all juveniles who have been adjudicated to have committed a juvenile offense within this state.

(2) The commanding officer shall provide all reporting officials with forms or prescribe the format, numerical identifiers, and instructions which specify the information required, the time it is to be forwarded, the method of classifying, and other matters to facilitate criminal and juvenile history record information collection and compilation.

(3) The commanding officer shall file the fingerprint impressions and photographs, if available, of all persons confined in a prison or other state correctional facility.

(4) The commanding officer shall provide access to criminal history record information and juvenile history record information, as prescribed by the department and as authorized by law.

(5) A copy of an arrest card shall be forwarded to the federal bureau of investigation.

History: 1925, Act 289, Imd. Eff. May 13, 1925;—CL 1929, 568;—Am. 1931, Act 197, Imd. Eff. May 28, 1931;—Am. 1937, Act 205, Eff. Oct. 29, 1937;—CL 1948, 28.242;—Am. 1978, Act 538, Imd. Eff. Dec. 22, 1978;—Am. 1986, Act 231, Eff. June 1, 1987;—Am. 1988, Act 40, Eff. June 1, 1988;—Am. 2001, Act 187, Eff. Apr. 1, 2002;—Am. 2001, Act 203, Eff. Oct. 1, 2002.

28.242a Dissemination of criminal history information; exception.

Sec. 2a. (1) Except as provided in subsection (2), all criminal history information that is associated with a state identification number and is supported by fingerprint impressions or images shall be disseminated in response to a fingerprint-based or name-based search of the criminal history record database.

(2) Subsection (1) does not require the dissemination of criminal history information that is nonpublic or is prohibited by law from being disseminated.

History: Add. 2005, Act 310, Eff. Feb. 1, 2006.

28.243 Taking and forwarding fingerprints of person arrested; manner; destruction of fingerprints and arrest card; duties of clerk on final disposition of charge; contents of report; informing director of federal bureau of investigation; comparison of fingerprints and description with those on file; informing arresting agency and prosecuting attorney; applicability of provisions; prohibited conduct under subsection (5).

Sec. 3. (1) Except as provided in subsection (3), immediately upon the arrest of a person for a felony or for a misdemeanor violation of state law for which the maximum possible penalty exceeds 92 days' imprisonment or a fine of $1,000.00, or both, or for criminal contempt under section 2950 or 2950a of the revised judicature act of 1961, 1961 PA 236, MCL 600.2950 and 600.2950a, or criminal contempt for a violation of a foreign protection order that satisfies the conditions for validity provided in section 2950i of the revised judicature act of 1961, 1961 PA 236, MCL 600.2950i, or for a juvenile offense, other than a juvenile offense for which the maximum possible penalty does not exceed 92 days' imprisonment or a fine of $1,000.00, or both, the arresting law enforcement agency in this state shall take the person's fingerprints and forward the fingerprints to the department within 72 hours after the arrest. The fingerprints shall be sent to the department on forms furnished by or in a manner prescribed by the department, and the department shall forward the fingerprints to the director of the federal bureau of investigation on forms furnished by or in a manner prescribed by the director.

(2) A law enforcement agency shall take a person's fingerprints under this subsection if the person is arrested for a misdemeanor violation of state law for which the maximum penalty is 93 days or for criminal contempt under section 2950 or 2950a of the revised judicature act of 1961, 1961 PA 236, MCL 600.2950 and 600.2950a, or criminal contempt for a violation of a foreign protection order that satisfies the conditions for validity provided in section 2950i of the revised judicature act of 1961, 1961 PA 236, MCL 600.2950i, if the fingerprints have not previously been taken and forwarded to the department under subsection (1). A law enforcement agency shall take a person's fingerprints under this subsection if the person is arrested for a violation of a local ordinance for which the maximum possible penalty is 93 days' imprisonment and that substantially corresponds to a violation of state law that is a misdemeanor for which the maximum possible term of imprisonment is 93 days. If the person is convicted of any violation, the law enforcement agency shall take the person's fingerprints before sentencing if not previously taken. The court shall forward to the law enforcement agency a copy of the disposition of conviction, and the law enforcement agency shall forward the person's fingerprints and the copy of the disposition of conviction to the department within 72 hours after receiving the disposition of conviction in the same manner as provided in subsection (1). If the person is convicted of violating a local ordinance, the law enforcement agency shall indicate on the form sent to the

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department the statutory citation for the state law to which the local ordinance substantially corresponds.

(3) A person's fingerprints are not required to be taken and forwarded to the department under subsection (1) or (2) solely because he or she has been convicted of violating section 904(3)(a) of the Michigan vehicle code, 1949 PA 300, MCL 257.904, or a local ordinance substantially corresponding to section 904(3)(a) of the Michigan vehicle code, 1949 PA 300, MCL 257.904.

(4) The arresting law enforcement agency may take 1 set of fingerprints of a person who is arrested for a misdemeanor punishable by imprisonment for not more than 92 days or a fine of not more than $1,000.00, or both, and who fails to produce satisfactory evidence of identification as required by section 1 of 1961 PA 44, MCL 780.581. These fingerprints shall be forwarded to the department immediately. Upon completion of the identification process by the department, the fingerprints shall be destroyed.

(5) An arresting law enforcement agency in this state may take the person's fingerprints on forms furnished by the commanding officer upon an arrest for a misdemeanor other than a misdemeanor described in subsection (1), (2), or (4), and may forward the fingerprints to the department.

(6) If a court orders the taking of fingerprints of a person pursuant to section 11 or 18 of chapter XIIA of the probate code of 1939, 1939 PA 288, MCL 712A.11 and 712A.18, or section 29 of chapter IV or section 1 of chapter IX of the code of criminal procedure, 1927 PA 175, MCL 764.29 and 769.1, the law enforcement agency shall forward the fingerprints and arrest card to the department.

(7) If a petition is not authorized for a juvenile accused of a juvenile offense, if a person arrested for having committed an offense for which he or she was fingerprinted under this section is released without a charge made against him or her, or if criminal contempt proceedings are not brought or criminal charges are not made against a person arrested for criminal contempt for a personal protection order violation under section 2950 or 2950a of the revised judicature act of 1961, 1961 PA 236, MCL 600.2950 and 600.2950a, or criminal contempt for a violation of a foreign protection order that meets the requirements for validity under section 2950i of the revised judicature act of 1961, 1961 PA 236, MCL 600.2950i, the official taking or holding the person's fingerprints and arrest card shall immediately destroy the fingerprints and arrest card. The law enforcement agency shall notify the department in writing that a petition was not authorized against the juvenile or that a charge was not made or that a criminal contempt proceeding was not brought against the arrested person if the juvenile's or arrested person's fingerprints were forwarded to the department.

(8) If a juvenile is adjudicated and found not to be within the provisions of section 2(a)(1) of chapter XIIA of the probate code of 1939, 1939 PA 288, MCL 712A.2, or if an accused is found not guilty of an offense for which he or she was fingerprinted under this section, upon final disposition of the charge against the accused or juvenile, the fingerprints and arrest card shall be destroyed by the official holding those items and the clerk of the court entering the disposition shall notify the department of any finding of not guilty or not guilty by reason of insanity, dismissal, or nolle prosequi, if it appears that the accused was initially fingerprinted under this section, or of any finding that a juvenile alleged responsible for a juvenile offense is not within the provisions of section 2(a)(1) of chapter XIIA of the probate code of 1939, 1939 PA 288, MCL 712A.2.

(9) Upon final disposition of the charge against the accused, the clerk of the court entering the disposition shall immediately advise the department of the final disposition of the arrest for which the person was fingerprinted if a juvenile was adjudicated to have committed a juvenile offense or if the accused was convicted of an offense for which he or she was fingerprinted under this section or section 16a of chapter IX of the code of criminal procedure, 1927 PA 175, MCL 769.16a. With regard to any adjudication or conviction, the clerk shall transmit to the department information as to any adjudication or finding of guilty or guilty but mentally ill; any plea of guilty, nolo contendere, or guilty but mentally ill; the offense of which the accused was convicted; and a summary of any deposition or sentence imposed. The summary of the sentence shall include any probationary term; any minimum, maximum, or alternative term of imprisonment; the total of all fines, costs, and restitution ordered; and any modification of sentence. If the sentence is imposed under any of the following sections, the report shall so indicate:

(a) Section 7411 of the public health code, 1978 PA 368, MCL 333.7411.

(b) Section 1076(4) of the revised judicature act of 1961, 1961 PA 236, MCL 600.1076.

(c) Sections 11 to 15 of chapter II of the code of criminal procedure, 1927 PA 175, MCL 762.11 to 762.15.

(d) Section 4a of chapter IX of the code of criminal procedure, 1927 PA 175, MCL 769.4a.

(e) Section 350a(4) of the Michigan penal code, 1931 PA 328, MCL 750.350a.

(f) Section 430(8)(a) of the Michigan penal code, 1931 PA 328, MCL 750.430.

(10) The department shall record the disposition of each charge and shall inform the director of the federal bureau of investigation of the final disposition of any arrest or offense for which a person was fingerprinted under this section or section 16a of chapter IX of the code of criminal procedure, 1927 PA 175, MCL 769.16a.

(11) The department shall compare the fingerprints and description received with those already on file and

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if the department finds that the person arrested has a criminal record, the department shall immediately inform the arresting agency and prosecuting attorney of this fact.

(12) The provisions of subsection (8) that require the destruction of the fingerprints and the arrest card do not apply to a person who was arraigned in circuit court or the family division of circuit court for any of the following:

(a) The commission or attempted commission of a crime with or against a child under 16 years of age.

(b) Rape.

(c) Criminal sexual conduct in any degree.

(d) Sodomy.

(e) Gross indecency.

(f) Indecent liberties.

(g) Child abusive commercial activities.

(h) A person who has a prior conviction, other than a misdemeanor traffic offense, unless a judge of a court of record, except the probate court, by express order on the record, orders the destruction or return of the fingerprints and arrest card.

(i) A person arrested who is a juvenile charged with an offense that would constitute the commission or attempted commission of any of the crimes in this subsection if committed by an adult.

(13) Subsection (5) does not permit the forwarding to the department of the fingerprints of a person accused and convicted under the Michigan vehicle code, 1949 PA 300, MCL 257.1 to 257.923, or a local ordinance substantially corresponding to a provision of that act, unless the offense is punishable upon conviction by imprisonment for more than 92 days or is an offense that is punishable by imprisonment for more than 92 days upon a subsequent conviction.

History: 1925, Act 289, Imd. Eff. May 13, 1925;—Am. 1929, Act 197, Imd. Eff. May 20, 1929;—CL 1929, 569;—Am. 1931, Act 197, Imd. Eff. May 28, 1931;—Am. 1937, Act 205, Eff. Oct. 29, 1937;—CL 1948, 28.243;—Am. 1951, Act 99, Eff. Sept. 23, 1951;—Am. 1958, Act 92, Eff. Sept. 13, 1958;—Am. 1959, Act 176, Eff. Mar. 19, 1960;—Am. 1978, Act 538, Imd. Eff. Dec. 22, 1978;—Am. 1986, Act 231, Eff. June 1, 1987;—Am. 1988, Act 40, Eff. June 1, 1988;—Am. 1989, Act 97, Imd. Eff. June 21, 1989;—Am. 1999, Act 77, Eff. Oct. 1, 1999;—Am. 1999, Act 266, Imd. Eff. Dec. 29, 1999;—Am. 2001, Act 187, Eff. Apr. 1, 2002;—Am. 2001, Act 203, Eff. Oct. 1, 2002;—Am. 2002, Act 694, Imd. Eff. Dec. 30, 2002;—Am. 2004, Act 222, Eff. Jan. 1, 2005.

28.243a Fingerprinting; refusal or resistance as misdemeanor.

Sec. 3a. (1) A person shall not refuse to allow or resist the taking of his or her fingerprints if authorized or required under this act.

(2) A person who violates subsection (1) is guilty of a misdemeanor punishable by imprisonment for not more than 90 days or by a fine of not more than $500.00, or both.

History: Add. 1968, Act 174, Eff. Nov. 15, 1968;—Am. 1986, Act 231, Eff. June 1, 1987;—Am. 2001, Act 187, Eff. Apr. 1, 2002.

28.244 Cooperation with bureaus in other states, federal bureau of investigation, and United States justice department.

Sec. 4. The commanding officer shall cooperate with the bureaus in other states and with the federal bureau of investigation and the United States justice department, to develop and carry on a complete interstate, national, and international system of criminal identification and records.

History: 1925, Act 289, Imd. Eff. May 13, 1925;—CL 1929, 570;—Am. 1931, Act 197, Imd. Eff. May 28, 1931;—CL 1948, 28.244;—Am. 1986, Act 231, Eff. June 1, 1987.

28.245 Local bureaus of identification; establishment.

Sec. 5. The commanding officer shall offer assistance and when practicable, instruction, to county sheriffs, chiefs of police, and other peace officers in establishing an efficient local bureau of identification in their districts.

History: 1925, Act 289, Imd. Eff. May 13, 1925;—CL 1929, 571;—CL 1948, 28.245;—Am. 1986, Act 231, Eff. June 1, 1987.

28.245a Performance audits of criminal and juvenile history record information; report.

Sec. 5a. (1) The commanding officer may perform random performance audits of the criminal and juvenile history record information required under this act.

(2) If the commanding officer finds during a performance audit that criminal or juvenile history record information is not being supplied as required under this act, the commanding officer shall report this fact to the attorney general.

History: Add. 1986, Act 231, Eff. June 1, 1987;—Am. 1988, Act 40, Eff. June 1, 1988.

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28.246 Neglect or refusal of officers or officials to perform duties as misdemeanor; penalty.

Sec. 6. Neglect or refusal of any of the officers or officials mentioned in sections 2, 3, and 7 to report as required under this act or to perform any other act required to be performed by him or her under this act shall constitute a misdemeanor, punishable by a fine of not less than $25.00 nor more than $100.00, or by imprisonment for not more than 60 days, or both. Such neglect or refusal shall also constitute nonfeasance in office and subject the official or officer to removal from office.

History: 1925, Act 289, Imd. Eff. May 13, 1925;—CL 1929, 572;—CL 1948, 28.246;—Am. 1986, Act 231, Eff. June 1, 1987.

28.247 Sexually motivated crimes and juvenile offenses and crimes and juvenile offenses involving sexual conduct; reports; forms; filing; confidentiality; examination of reports; violation as misdemeanor; penalty.

Sec. 7. The sheriff of every county and the chief executive officer of the police department of every city, village, and township shall make reports of accused persons against whom a warrant has been issued and the disposition thereof in sexually motivated crimes and juvenile offenses and crimes and juvenile offenses involving sexual conduct verified as such and the disposition of cases resulting from such charges. The department of state police shall provide the forms necessary for reporting such information, and the department shall file the reports or copies of the reports in a separate confidential filing system. The reports shall be available for examination only by the attorney general, any prosecuting attorney, any court of record, the director of the state police, county sheriffs, and the chief executive officer of the police department of any city, village, or township and their authorized officers. The reports shall be held confidential except for official use. Any person who violates any of the confidential provisions of this section shall be guilty of a misdemeanor, punishable by imprisonment for not more than 1 year, or by a fine of not more than $500.00, or both.

History: Add. 1955, Act 132, Imd. Eff. June 7, 1955;—Am. 1986, Act 231, Eff. June 1, 1987;—Am. 1988, Act 40, Eff. June 1, 1988.

Former law: See Section 7 of Act 289 of 1929, which was repealed by Act 267 of 1945 .

28.248 Use of noncriminal identification fingerprints for criminal identification.

Sec. 8. Fingerprint impressions obtained under a law or rule for noncriminal identification purposes may be used for criminal identification purposes unless prohibited by law or rule.

History: Add. 2001, Act 187, Eff. Apr. 1, 2002.

Compiler's note: Former MCL 28.248, which pertained to director's report and recommendations, was repealed by Act 231 of 1986, Eff. June 1, 1987.

28.249 Repealed. 1986, Act 231, Eff. June 1, 1987.

Compiler's note: The repealed section pertained to access to public records and documents.

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UNIFORM CRIME REPORTING SYSTEM
Act 319 of 1968

AN ACT to provide a uniform crime reporting system; to provide for the submitting of such report to the department of state police; to require submission of the report by certain police agencies; to require the reporting on wanted persons and stolen vehicles; to require the reporting of information regarding certain persons and unidentified bodies of deceased persons; to prescribe certain powers and duties of law enforcement agencies; and to vest the director of the department of state police with certain authority.

History: 1968, Act 319, Imd. Eff. July 3, 1968;—Am. 1985, Act 204, Eff. Mar. 1, 1986.

The People of the State of Michigan enact:

28.251 Uniform crime reports; duties of police departments to file, contents.

Sec. 1. The police department of each city or village, any duly constituted police department of a township, and the sheriff's department of each county, once each month upon a date and form prescribed and furnished by the director of the department of state police, shall forward to the department of state police a crime report. Each reporting department shall report only on cases within its jurisdiction and upon which it is making, or has made, the primary police investigation. The report shall be called the uniform crime report and shall cover crimes reported and otherwise processed during the month preceding the month of the report. It shall contain the number and nature of offenses committed, the disposition of such offenses and such other information as the director of state police shall specify relating to the method, frequency, cause and prevention of crime. Under no circumstances shall the name of any person be reported.

History: 1968, Act 319, Imd. Eff. July 3, 1968.

28.252 Compilation of monthly uniform crime reports; use.

Sec. 2. Upon receipt of the monthly uniform crime reports from the reporting agencies, the department of state police shall prepare a statewide compilation of the statistics contained therein and the resulting statistical compilation shall be available to any governmental law enforcement agency in the state, the judiciary committees of the Michigan state senate and the Michigan state house of representatives, and the federal bureau of investigation, upon request. The statistics made available through the uniform crime report shall be used for the purpose of studying the causes, trends and effects of crime in this state and for intelligence upon which to base a more sound program of crime detection and prevention and the apprehension of criminals.

History: 1968, Act 319, Imd. Eff. July 3, 1968.

28.253 Voluntary crime reports; inclusion in compilation.

Sec. 3. Any governmental police agency, not falling within the description of those required to submit the monthly uniform crime report set forth in section 1, which desires to submit such a report, shall be furnished with the proper forms by the department of state police. When a report is received by the department of state police from a governmental police agency not required to make such report, the information contained therein shall be included within the monthly compilation provided for in section 2.

History: 1968, Act 319, Imd. Eff. July 3, 1968.

28.254 Reports of wanted persons and stolen vehicles.

Sec. 4. The chief of police of each city or village and of each township having a police department, and the sheriff of each county within this state, shall report to the department of state police, in a manner prescribed by the department, all persons wanted by, and all vehicles stolen from, their primary police jurisdictions. The report shall be made as soon as is practical after the investigating department either ascertains that a vehicle is stolen or obtains a warrant for an individual's arrest or determines that they have reasonable grounds to believe that the individual committed a crime. In no case shall this time exceed 12 hours after the reporting agency determines that it has grounds to believe that a vehicle was stolen or that the wanted person should be arrested.

History: 1968, Act 319, Imd. Eff. July 3, 1968.

28.255 Reports of apprehension or recovery.

Sec. 5. When at any time after making a report required by section 4 it is determined by the reporting agency that a person is no longer wanted because of his apprehension, or any other factor, and when a vehicle reported stolen under section 4 is recovered, the chief of police or sheriff of the reporting agency shall immediately notify the department of state police in a manner prescribed by the department.

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History: 1968, Act 319, Imd. Eff. July 3, 1968.

28.256 Inapplicability of act as to traffic misdemeanors.

Sec. 6. The provisions of this act do not apply to misdemeanor traffic cases or to persons wanted for misdemeanor traffic offenses, or for the violation of any city, village or township ordinance. The provisions of this act shall not be construed to in any way affect existing or future laws and procedures governing the reporting of persons wanted for traffic law violations or for the violation of city, village or township ordinances.

History: 1968, Act 319, Imd. Eff. July 3, 1968.

28.257 Domestic violence incidents; report to state police; contents.

Sec. 7. The chief of police of each city or village, the chief of police of each township having a police department, and the sheriff of each county within this state shall report to the department of state police, in a manner prescribed by the department, the following information related to domestic violence incidents:

(a) The number of assaults reported that involve an adult and a minor and the disposition of those offenses.

(b) The number of assaults reported that involve either 2 male adults or 2 female adults and the disposition of those offenses.

(c) The number of assaults reported that involve 1 male adult and 1 female adult and the disposition of those offenses.

(d) The number of crimes reported that involve an individual and his or her spouse, his or her former spouse, an individual with whom he or she has had a child in common, an individual with whom he or she has or has had a dating relationship, or an individual who resides or has resided in the same household; and the disposition of those offenses. As used in this subdivision, “dating relationship” means that term as defined in section 2950 of the revised judicature act of 1961, 1961 PA 236, MCL 600.2950.

(e) Other statistics the director of the department of state police considers necessary to obtain accurate and reliable data on the incidence of domestic violence in this state.

History: Add. 1978, Act 319, Imd. Eff. July 10, 1978;—Am. 2001, Act 191, Eff. Oct. 1, 2002.

28.257a Crimes motivated by prejudice or bias; report.

Sec. 7a. The chief of police of each city or village, the chief of police of each township having a police department, and the sheriff of each county within this state shall report to the department of state police, in a manner prescribed by the department, information specified under section 1 related to crimes motivated by prejudice or bias based upon race, ethnic origin, religion, gender, or sexual orientation.

History: Add. 1991, Act 172, Eff. Mar. 30, 1992.

28.258 Definitions; certain persons reported missing; preliminary investigation; entering information into LEIN, national crime information center, and clearinghouse; dental records; retaining and broadcasting information; forwarding information to registrar; notice and information to last known school district; request that registrar and school district be notified; emancipated missing child; cancellation of information; policy preventing immediate investigation prohibited; unidentified body; unknown identity of individual found.

Sec. 8. (1) As used in this section and section 9:

(a) "Child" means an individual less than 17 years of age.

(b) "Clearinghouse" means the missing child information clearinghouse established under section 9.

(c) "Department" means the department of state police.

(d) "Law enforcement agency" means the department; a police agency of a city, village, or township; a sheriff's department; or any other governmental law enforcement agency in this state.

(e) "LEIN" means law enforcement information network regulated under the C.J.I.S. policy council act, 1974 PA 163, MCL 28.211 to 28.215.

(f) "Registrar" means the state registrar as defined in section 2805 of the public health code, 1978 PA 368, MCL 333.2805.

(2) If an individual who is any of the following is reported missing, the law enforcement agency receiving the report, after conducting a preliminary investigation, shall immediately enter the information described in subsection (3) regarding that individual into the LEIN, the national crime information center, and if the individual is a child, the clearinghouse:

(a) An individual who has a physical or mental disability as evidenced by written documentation from a physician or other authoritative source. As used in this act, "mental disability" includes Alzheimer's disease

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and dementia.

(b) An individual who was in the company of another individual under circumstances indicating that the individual's physical safety may be in danger.

(c) An individual who disappeared under circumstances indicating that the disappearance was not voluntary.

(d) A child not described in subdivision (a), (b), (c), or (f).

(e) An individual not described in subdivision (a), (b), (c), or (f), who is believed to be incapable of returning to his or her residence without assistance.

(f) An individual who is missing as the result of a natural or intentionally caused catastrophe or extraordinary accident that causes the loss of human life.

(3) The information to be entered into the LEIN, the national crime information center, and the clearinghouse under subsection (2) shall include all of the following, if available:

(a) The name and address of the individual.

(b) The vital statistics of the individual, including a physical description, and if the missing individual is a child, the child's date of birth, state of birth, and if possible, mother's maiden name.

(c) The date the individual was missing and, if the missing individual is a child under subsection (2)(d), the date the child becomes 17 years of age.

(d) Any other information that may assist in the location of the individual, as determined by the department and the LEIN policy council.

(4) If subsections (2) and (3) have been complied with and the individual is not found within 30 days, the law enforcement agency that received the report under subsection (2) shall seek the dental records of the individual under section 2844a of the public health code, 1978 PA 368, MCL 333.2844a. The information from the dental records shall be entered into the national crime information center and, if the individual is a child, the clearinghouse by the law enforcement agency.

(5) The LEIN shall retain the information under subsection (3) reported to it until the law enforcement agency that entered the information cancels the information.

(6) The law enforcement agency receiving a report of a missing individual described in subsection (2) may, or if the individual is a child and subject to the policy established by the clearinghouse, or if the individual has Alzheimer's disease or dementia or is believed to be incapable of returning to his or her residence without assistance, shall, broadcast the information described in subsection (3) over the LEIN to all of the following:

(a) All law enforcement agencies having jurisdiction of the location where the missing individual lives or was last seen.

(b) Any other law enforcement agency that potentially could become involved in locating the missing individual.

(c) All law enforcement agencies to which the individual who reported the individual missing requests the information be sent, if the request is reasonable.

(7) If 14 days have elapsed since the law enforcement agency has received a report that a child who was born in this state is missing, and the agency has not been notified of the child's return, the LEIN shall forward on-line the information described in subsection (3) to the registrar via the registrar's restricted access LEIN terminal.

(8) If 14 days have elapsed since the law enforcement agency has received a report of a missing child and the agency has not been notified of the child's return, the agency, if it has reason to believe that a missing child may be enrolled in a school district in this state, shall notify in writing the child's last known local school district or intermediate school district that the child is missing and shall provide the school district with the information described in subsection (3).

(9) A parent or legal guardian of a child missing before June 29, 1987, may notify a law enforcement agency that he or she wants the registrar and school district notified pursuant to subsections (7) and (8). Upon receiving the request, the law enforcement agency shall proceed as provided in subsections (7) and (8).

(10) On the seventeenth birthday of a child who has been reported missing pursuant to subsection (2)(d), any information entered into the LEIN regarding that child shall be retained and the child shall be considered to be an emancipated missing child until the information is canceled by the law enforcement agency that entered the information into the network. If the information entered into the LEIN regarding a child missing as prescribed by subsection (2) is canceled, the law enforcement agency that entered the information into the network shall inform the registrar and school district notified as prescribed by subsection (7) of the cancellation.

(11) A law enforcement agency shall not establish or maintain a policy that prevents an immediate investigation as soon as practical regarding an individual described in subsection (2) who is reported missing.

(12) When the unidentified body of a deceased individual is found, the law enforcement agency receiving

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the report, after conducting a preliminary investigation, shall immediately enter the following information, if available, into the national crime information center and, if the body is that of a child, into the clearinghouse:

(a) The physical description of the unidentified body and whether footprints, body X-rays, and fingerprint classifications are available.

(b) The date the body was found and the cause and manner of death.

(c) What body parts are found if the body is dismembered.

(d) Dental examination records obtained under section 2844a of the public health code, 1978 PA 368, MCL 333.2844a.

(e) Any other information that would assist in the identification of the body, as determined by the department and the LEIN policy council.

(13) When an individual is found whose identity is unknown and cannot be readily determined, the law enforcement agency receiving the report, after conducting a preliminary investigation, shall enter the following information into the national crime information center and, if the individual is a child, into the clearinghouse:

(a) A physical description of the individual.

(b) Any other information that would assist in the identification of the individual, as determined by the department and the LEIN policy council.

History: Add. 1985, Act 204, Eff. Mar. 1, 1986;—Am. 1987, Act 82, Imd. Eff. June 29, 1987;—Am. 1995, Act 39, Imd. Eff. May 22, 1995;—Am. 2002, Act 718, Imd. Eff. Dec. 30, 2002;—Am. 2006, Act 450, Imd. Eff. Dec. 14, 2006.

28.259 Missing children information clearinghouse; establishment; administration; supervision; services; duties; location of child; compliance.

Sec. 9. (1) A missing children information clearinghouse is established in the department. Except as otherwise provided in this section, the department shall administer the clearinghouse as a central repository of information regarding missing children, which information shall be collected and disseminated to assist in the location of missing children. The department director shall designate an individual to supervise the clearinghouse. To the extent money is available, the department shall establish services considered appropriate to aid in the location of missing children.

(2) In providing a centralized file for exchange of information on missing children within the state, the clearinghouse shall do all of the following:

(a) Record each report on a missing child received under section 8.

(b) Accept and record a report about a missing child from a law enforcement agency.

(c) Exchange information on children suspected of interstate travel with the national crime information center.

(d) Establish a policy regarding the compilation of a record of the reasons children become missing.

(3) Upon locating the missing child, the originating law enforcement agency shall remove the missing child from the clearinghouse record by means of the LEIN. If the originating law enforcement agency has new information about the missing child's location, that agency shall report the information to the law enforcement agency with jurisdiction in the area in which the missing child may be located.

(4) The department may audit law enforcement agency records as necessary to determine compliance with this section. A law enforcement agency shall comply with the reasonable requests of the department in carrying out this subsection and in otherwise administering the clearinghouse.

History: Add. 1995, Act 39, Imd. Eff. May 22, 1995.

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FINGERPRINTING INMATES OF STATE INSTITUTIONS
Act 86 of 1935

AN ACT to provide for the compulsory finger-printing of inmates of certain state institutions, and to provide for the recording and filing thereof by the bureau of identification of the department of public safety.

History: 1935, Act 86, Imd. Eff. May 27, 1935.

The People of the State of Michigan enact:

28.261 Fingerprinting inmates of penal or correctional institution; compliance; copies of impressions.

Sec. 1. A person entering into and each and every person now confined in a penal or correctional institution shall be required to have an impression of his fingerprints made. It shall be the duty of the superintendent of the admitting or confining institution to see that the provisions of this section are complied with and that at least 2 copies of the impression are made, 1 for the files of the institution and the other to be forwarded to the department of state police.

History: 1935, Act 86, Imd. Eff. May 27, 1935;—CL 1948, 28.261;—Am. 1973, Act 88, Imd. Eff. Aug. 5, 1973.

28.262 Bureau of identification filing system for fingerprints of inmates of state institutions; purpose, equipment, supplies.

Sec. 2. It shall be the duty of the bureau of identification to install and maintain a filing system for the purpose of recording and preserving the various impressions received by it by virtue of the terms of this act, said filing system to be separated from the system now employed by the bureau for the recording and preserving of finger-print impressions of criminals. The equipment and supplies for the proper carrying out of this act shall be furnished by the department of public safety.

History: 1935, Act 86, Imd. Eff. May 27, 1935;—CL 1948, 28.262.

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FINGERPRINTING RESIDENTS OF STATE
Act 120 of 1935

AN ACT to prescribe a method for the fingerprinting of residents of the state, and to provide for the recording and filing thereof by the central records division of the department of state police.

History: 1935, Act 120, Eff. Sept. 21, 1935;—Am. 1985, Act 175, Imd. Eff. Dec. 2, 1985.

The People of the State of Michigan enact:

28.271 Request for impression of fingerprints; copies; exception.

Sec. 1. Except as provided in section 4 of the child identification and protection act, when a resident of this state appears before any sheriff or police agency for the county in which he or she resides, and requests an impression of his or her fingerprints, the agency shall comply with the request and make at least 2 copies of the impression, 1 for the files of the local police and the other to be forwarded to the central records division of the department of state police.

History: 1935, Act 120, Eff. Sept. 21, 1935;—CL 1948, 28.271;—Am. 1985, Act 175, Imd. Eff. Dec. 2, 1985.

28.272 Filing system; purpose; equipment and supplies.

Sec. 2. The central records division of the department of state police shall install and maintain a filing system for the purpose of recording and preserving the various impressions received by it by virtue of the terms of this act, the filing system to be distinguished from the system now employed by the division for the recording and preserving of fingerprints of criminals. The equipment and supplies for the proper carrying out of this act shall be furnished by the department of state police.

History: 1935, Act 120, Eff. Sept. 21, 1935;—Am. 1943, Act 170, Imd. Eff. Apr. 17, 1943;—CL 1948, 28.272;—Am. 1985, Act 175, Imd. Eff. Dec. 2, 1985.

28.273 Fingerprinting and criminal record check; fees; report.

Sec. 3. (1) The department of state police may charge a fee, not to exceed $30.00, until October 1, 2010, for taking and processing the fingerprints and completing a criminal record check of a resident of this state when the impression of the fingerprints are requested for employment-related or licensing-related purposes. A fee shall not be collected under this subsection if a fee for taking and processing fingerprints is collected under any other law. The fee shall not exceed the actual cost of taking and processing the impression of the fingerprints and completing a criminal record check on that person. The fee shall be collected and forwarded to the state police by the licensing body or the employer.

(2) The department of state police shall submit a written report to the secretary of the senate and the clerk of the house of representatives by October 1 of each year stating whether the fee charged under subsection (1) is sufficient to support the actual costs of fingerprinting and what the actual costs of fingerprinting are.

(3) Until October 1, 2010, the department of state police may charge a fee of $10.00 for processing and completing a name-based criminal record check. A fee shall not be charged under this subsection if a fee for processing the name-based criminal record check is charged under any other law. However, a fee under this subsection shall not be charged in the case of a government agency or nonprofit charitable agency performing employment or volunteer employment name-based background checks through the internet criminal history access tool (ICHAT).

History: Add. 1985, Act 175, Imd. Eff. Dec. 2, 1985;—Am. 2002, Act 463, Imd. Eff. June 21, 2002;—Am. 2004, Act 359, Imd. Eff. Sept. 30, 2004;—Am. 2007, Act 76, Imd. Eff. Sept. 30, 2007.

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RADIO BROADCASTING STATIONS
Act 152 of 1929

AN ACT to provide for the state-owned and operated Michigan public safety communications system for police and public safety purposes; to provide for acquisition, construction, implementation, operation, and maintenance of the property and equipment necessary to operate the system; and to prescribe the powers and duties of certain state agencies and officials.

History: 1929, Act 152, Eff. Aug. 28, 1929;—Am. 1945, Act 62, Eff. Sept. 6, 1945;—Am. 1996, Act 538, Imd. Eff. Jan. 13, 1997.

The People of the State of Michigan enact:

28.281 Michigan public safety communications system; establishment within department of state police; scope.

Sec. 1. The Michigan public safety communications system is an 800-megahertz radio system and telecommunication network within the department of state police and includes all real and personal property, towers, buildings, equipment, and other related facilities and fixtures necessary for the operation and maintenance of the system.

History: 1929, Act 152, Eff. Aug. 28, 1929;—CL 1929, 574;—CL 1948, 28.281;—Am. 1996, Act 538, Imd. Eff. Jan. 13, 1997.

28.282 Michigan public safety communications system; construction; implementation; operation; maintenance; location; special use permit.

Sec. 2. (1) The director of the department of state police and the director of the department of management and budget are responsible for the construction, implementation, operation, and maintenance of the Michigan public safety communications system.

(2) In siting the buildings and equipment necessary to implement the Michigan public safety communications system, the director of the department of state police shall locate the system, a local unit of government with zoning authority shall be notified of a site selected in their jurisdiction and the requirements necessary for a site. If the selected site does not comply with zoning, the local unit shall have 30 days from the date of notification to grant a special use permit or propose an equivalent site. If the local unit does not grant a special use permit within the 30 day period, or a proposed alternate site does not meet the siting requirements, the department may proceed with construction.

History: 1929, Act 152, Eff. Aug. 28, 1929;—CL 1929, 575;—Am. 1945, Act 62, Eff. Sept. 6, 1945;—CL 1948, 28.282;—Am. 1996, Act 538, Imd. Eff. Jan. 13, 1997.

28.283 Michigan public safety communications system; police dispatches and reports broadcasted; use by governmental public safety agency.

Sec. 3. (1) The department of state police shall broadcast all police dispatches and reports which have a reasonable relation to or connection with the apprehension of criminals, the prevention of crime, or the maintenance of peace, order, and public safety in this state.

(2) The director of the department of state police may authorize any governmental public safety agency to utilize the Michigan public safety communications system.

History: 1929, Act 152, Eff. Aug. 28, 1929;—CL 1929, 576;—Am. 1945, Act 62, Eff. Sept. 6, 1945;—CL 1948, 28.283;—Am. 1996, Act 538, Imd. Eff. Jan. 13, 1997.

28.287 Repealed. 1996, Act 538, Imd. Eff. Jan. 13, 1997.

Compiler's note: The repealed section pertained to purchase of sets, employment of operators, and expenses relating to state radio stations.

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STATE PERSONAL IDENTIFICATION CARD
Act 222 of 1972

AN ACT to provide for an official personal identification card; to provide for its form, issuance and use; to regulate the use and disclosure of information obtained from the card; to prescribe the powers and duties of the secretary of state; to prescribe fees; to prescribe certain penalties for violations; and to provide an appropriation for certain purposes.

History: 1972, Act 222, Imd. Eff. July 25, 1972;—Am. 1975, Act 307, Eff. Jan. 1, 1976;—Am. 1997, Act 99, Imd. Eff. Aug. 7, 1997;—Am. 2002, Act 553, Eff. Oct. 1, 2002.

The People of the State of Michigan enact:

28.291 Official state personal identification card; application; requirements; limitation; applicant not citizen of United States; disclosure or display of social security number; exception; agreements with federal government; termination of official state personal identification card issued by another state; duties of secretary of state.

Sec. 1. (1) A person who is a resident of this state may apply to the department of state for an official state personal identification card. Upon application, the applicant shall supply a photographic identity document, a birth certificate or other nonphotographic identity document, and other sufficient documents as the secretary of state may require to verify the identity and citizenship of the applicant. If an applicant for an official state personal identification card is not a citizen of the United States, the applicant shall supply a photographic identity document and other sufficient documents to verify the identity of the applicant and the applicant's legal presence in the United States under subsection (3). The documents required under this subsection shall include the applicant's full legal name, date of birth, and address and residency and demonstrate that the applicant is a citizen of the United States or is legally present in the United States. If the applicant's full legal name differs from the name of the applicant that appears on a document presented under this subsection, the applicant shall present documents to verify his or her current full legal name. An application for a state personal identification card shall be made in a manner prescribed by the secretary of state and shall contain the applicant's full legal name, date of birth, residence address, height, sex, eye color, signature, intent to be an organ donor, other information required or permitted on the official state personal identification card and, only to the extent to comply with federal law, the applicant's social security number. The applicant may provide a mailing address if the applicant receives mail at an address different from his or her residence address.

(2) The secretary of state shall not issue an official state personal identification card to a person who holds an operator's or chauffeur's license issued under the Michigan vehicle code, 1949 PA 300, MCL 257.1 to 257.923, unless the license has been suspended, revoked, or restricted.

(3) If the applicant is not a citizen of the United States, the applicant shall provide documents demonstrating his or her legal presence in the United States. A person legally present in the United States includes, but is not limited to, a person authorized by the United States government for employment in the United States, a person with nonimmigrant status authorized under federal law, and a person who is the beneficiary of an approved immigrant visa petition or an approved labor certification. The secretary of state shall adopt rules under the administrative procedures act of 1969, 1969 PA 306, MCL 24.201 to 24.328, as are necessary for the administration of this subsection. A determination by the secretary of state that an applicant is not legally present in the United States may be appealed under section 631 of the revised judicature act of 1961, 1961 PA 236, MCL 600.631.

(4) The secretary of state shall not disclose a social security number obtained under subsection (1) to another person except for use for 1 or more of the following purposes:

(a) Compliance with 49 USC 31301 to 31317 and regulations and rules related to this act.

(b) To carry out the purposes of section 466(a) of the social security act, 42 USC 666, in connection with matters relating to paternity, child support, or overdue child support.

(c) With the department of community health, for comparison with vital records maintained by the department of community health under part 28 of the public health code, 1978 PA 368, MCL 333.2801 to 333.2899.

(d) As otherwise required by law.

(5) The secretary of state shall not display a person's social security number on the person's official state personal identification card.

(6) A requirement under this section to include a social security number on an application does not apply to

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an applicant who demonstrates he or she is exempt under law from obtaining a social security number.

(7) The secretary of state, with the approval of the state administrative board created under 1921 PA 2, MCL 17.1 to 17.3, may enter into agreements with the United States government to verify whether an applicant for an official state personal identification card under this section who is not a citizen of the United States is authorized under federal law to be present in the United States.

(8) The secretary of state shall not issue an official state personal identification card to a person holding an official state personal identification card issued by another state without confirmation that the person is terminating or has terminated the official state personal identification card issued by the other state.

(9) The secretary of state shall do all of the following:

(a) Ensure the physical security of locations where official state personal identification cards are produced and the security of document materials and papers from which official state personal identification cards are produced.

(b) Subject all persons authorized to manufacture or produce official state personal identification cards and all persons who have the ability to affect the identity information that appears on official state personal identification cards to appropriate security clearance requirements. The security requirements of this subdivision and subdivision (a) may require that official state personal identification cards be manufactured or produced in this state.

(c) Provide fraudulent document recognition programs to department of state employees engaged in the issuance of official state personal identification cards.

History: 1972, Act 222, Imd. Eff. July 25, 1972;—Am. 1975, Act 307, Eff. Jan. 1, 1976;—Am. 1997, Act 99, Imd. Eff. Aug. 7, 1997;—Am. 2005, Act 143, Imd. Eff. Sept. 29, 2005;—Am. 2008, Act 31, Imd. Eff. Mar. 13, 2008.

28.291a Definitions.

Sec. 1a. As used in this act:

(a) "Highly restricted personal information" includes an individual's photograph or image, social security number, digitized signature, and medical and disability information and source documents presented by an applicant to obtain a personal identification card under section 1.

(b) "Personal information" means information that identifies an individual, including the individual's photograph or image, name, address (but not the 5-digit zip code), driver license number, social security number, telephone number, digitized signature, and medical and disability information.

(c) "Residence address" means the place that is the settled home or domicile at which a person legally resides, which meets the definition of residence as defined in section 11 of the Michigan election law, 1954 PA 116, MCL 168.11.

(d) "Resident" means every person who resides in this state and establishes that he or she is legally present in the United States. This definition applies to the provisions of this act only.

History: Add. 1997, Act 99, Imd. Eff. Aug. 7, 1997;—Am. 2008, Act 31, Imd. Eff. Mar. 13, 2008.

28.292 Official state personal identification card; contents; duties of secretary of state; methods; form; emergency medical information card; fingerprint or finger image; retention and use of person's digital photographic image; limitation; evidence of blindness; placement on donor registry; information; issuance; manufacture; fees; expiration; renewal; waiver of fee; correction for change of name or address; application for renewal; other information; emancipated minor; participation in anatomical gift donor registry; validity.

Sec. 2. (1) The official state personal identification card shall contain the following:

(a) An identification number permanently assigned to the person.

(b) The full legal name, date of birth, sex, residence address, height, weight, eye color, digital photographic image, signature of the applicant, and expiration date of the official state personal identification card.

(c) An indication that the identification card contains 1 or more of the following:

(*i*) The blood type of the person.

(*ii*) Immunization data of the person.

(*iii*) Medication data of the person.

(*iv*) A statement that the person is deaf.

(d) In the case of a holder of an official state personal identification card who has indicated his or her wish to participate in the anatomical gift donor registry under part 101 of the public health code, 1978 PA 368, MCL 333.10101 to 333.10123, a heart insignia on the front of the official state personal identification card.

(e) Physical security features designed to prevent tampering, counterfeiting, or duplication of the official

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state personal identification card for fraudulent purposes.

(2) In conjunction with the application for an official state personal identification card, the secretary of state shall do all of the following:

(a) Provide the applicant with all of the following:

(*i*) Information explaining the applicant's right to make an anatomical gift in the event of death under part 101 of the public health code, 1978 PA 368, MCL 333.10101 to 333.10123, and in accordance with this section.

(*ii*) Information describing the donor registry program maintained by Michigan's federally designated organ procurement organization or its successor organization under section 10120 of the public health code, 1978 PA 368, MCL 333.10120. The information required under this subparagraph includes the address and telephone number of Michigan's federally designated organ procurement organization or its successor organization as defined in section 10120 of the public health code, 1978 PA 368, MCL 333.10120.

(*iii*) Information giving the applicant the opportunity to have his or her name placed on the registry described in subparagraph (*ii*).

(b) Provide the applicant with the opportunity to specify on his or her official state personal identification card that he or she is willing to make an anatomical gift in the event of death pursuant to part 101 of the public health code, 1978 PA 368, MCL 333.10101 to 333.10123, and in accordance with this section.

(c) Inform the applicant that, if he or she indicates to the secretary of state under this section a willingness to have his or her name placed on the donor registry described in subdivision (a)(*ii*), the secretary of state will mark the applicant's record for the donor registry.

(3) The secretary of state may fulfill the requirements of subsection (2) by 1 or more of the following methods:

(a) Providing printed material enclosed with a mailed notice for the issuance or renewal of an official state personal identification card.

(b) Providing printed material to an applicant who personally appears at a secretary of state branch office.

(c) Through electronic information transmittals for applications processed by electronic means.

(4) The secretary of state shall prescribe the form of the identification card. The secretary of state shall designate on the identification card a space where the applicant may place a sticker or decal of the uniform size as the secretary may specify to indicate that the cardholder carries a separate emergency medical information card. The sticker or decal may be provided by any person, hospital, school, medical group, or association interested in assisting in implementing the emergency medical information card, but shall meet the specifications of the secretary of state. The sticker or decal also may be used to indicate that the cardholder has designated 1 or more patient advocates in accordance with section 5506 of the estates and protected individuals code, 1998 PA 386, MCL 700.5506. The emergency medical information card, carried separately by the cardholder, may contain the information described in subsection (2)(c), information concerning the cardholder's patient advocate designation, other emergency medical information, or an indication as to where the cardholder has stored or registered emergency medical information. An original identification card or the renewal of an existing identification card issued to a person less than 21 years of age shall be portrait or vertical in form and an identification card issued to a person 21 years of age or over shall be landscape or horizontal in form. Except as otherwise required in this act, other information required on the identification card under this act may appear on the identification card in a form prescribed by the secretary of state.

(5) The identification card shall not contain a fingerprint or finger image of the applicant.

(6) Except as provided in this subsection, the secretary of state shall retain and use a person's digital photographic image and signature described in subsection (1)(b) only for programs administered by the secretary of state as specifically authorized by law. A person's digital photographic image or signature shall only be used as follows:

(a) By a federal, state, or local governmental agency for a law enforcement purpose authorized by law.

(b) By the secretary of state for a use specifically authorized by law.

(c) The secretary of state shall forward to the department of state police the images of persons required to be registered under the sex offenders registration act, 1994 PA 295, MCL 28.721 to 28.736, upon the department of state police providing the secretary of state an updated list of those persons.

(d) As necessary to comply with a law of this state or the United States.

(7) If a person presents evidence of statutory blindness as provided in 1978 PA 260, MCL 393.351 to 393.368, and is issued or is the holder of an official state personal identification card, the secretary of state shall mark the person's identification card in a manner that clearly indicates that the cardholder is legally blind.

(8) The secretary of state shall maintain a record of an individual who indicates a willingness to have his or her name placed on the donor registry described in subsection (2)(a)(*ii*). Information about a person's

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indication of a willingness to have his or her name placed on the donor registry that is obtained by the secretary of state and forwarded under this section is exempt from disclosure under section 13(1)(d) of the freedom of information act, 1976 PA 442, MCL 15.243. As required in section 10120 of the public health code, 1978 PA 368, MCL 333.10120, the secretary of state shall establish and maintain the donor registry in a manner that complies with that section and that provides electronic access, including, but not limited to, the transfer of data to this state's federally designated organ procurement organization or its successor organization, tissue banks, and eye banks.

(9) An official state personal identification card may contain an identifier for voter registration purposes.

(10) An official state personal identification card shall contain information appearing in electronic or machine readable codes needed to conduct a transaction with the secretary of state. The information shall be limited to the person's identification card number, birth date, expiration date, full legal name, date of transaction, gender, address, state of issuance, and other information necessary for use with electronic devices, machine readers, or automatic teller machines and shall not contain the person's driving record or other personal identifier. The identification card shall identify the encoded information.

(11) An official state personal identification card shall be issued only upon authorization of the secretary of state, and shall be manufactured in a manner to prohibit as nearly as possible the ability to reproduce, alter, counterfeit, forge, or duplicate the identification card without ready detection.

(12) Except as otherwise provided in this act, an applicant shall pay a fee of $10.00 to the secretary of state for each original or renewal identification card issued. The department of treasury shall deposit the fees received and collected under this section in the state treasury to the credit of the general fund. The legislature shall appropriate the fees credited to the general fund under this act to the secretary of state for the administration of this act. Appropriations from the Michigan transportation fund created under section 10 of 1951 PA 51, MCL 247.660, shall not be used to compensate the secretary of state for costs incurred and services performed under this section.

(13) An original or renewal official state personal identification card expires on the birthday of the person to whom it is issued in the fourth year following the date of issuance or on the date the person is no longer considered to be legally present in the United States under section 1, whichever is earlier. The secretary of state shall not issue an official state personal identification card under this act for a period greater than 4 years. Except as provided in this subsection, a person may apply for a renewal of an official state personal identification card by mail or by other methods prescribed by the secretary of state. The secretary of state shall require renewal in person by a person required under section 5a of the sex offenders registration act, 1994 PA 295, MCL 28.725a, to maintain a valid operator's or chauffeur's license or official state personal identification card.

(14) The secretary of state shall waive the fee under this section if the applicant is any of the following:

(a) A person 65 years of age or older.

(b) A person who has had his or her operator's or chauffeur's license suspended, revoked, or denied under the Michigan vehicle code, 1949 PA 300, MCL 257.1 to 257.923, because of a mental or physical infirmity or disability.

(c) A person who presents evidence of statutory blindness as provided in 1978 PA 260, MCL 393.351 to 393.368.

(d) A person who presents other good cause for a fee waiver.

(e) A person who wishes to add or remove a heart insignia described in subsection (1)(d).

(15) A person who has been issued an official state personal identification card shall apply for a renewal official state personal identification card if the person changes his or her name.

(16) A person who has been issued an official state personal identification card shall apply for a corrected identification card if he or she changes his or her residence address. The secretary of state may correct the address on an identification card by a method prescribed by the secretary of state. A fee shall not be charged for a change of residence address.

(17) Except as otherwise provided in subsections (15) and (16), a person who has been issued an official state personal identification card may apply for a renewal official state personal identification card for 1 or more of the following reasons:

(a) The person wants to change any information on the identification card.

(b) An identification card issued under this act is lost, destroyed, or mutilated, or becomes illegible.

(18) A person may indicate on an official state personal identification card in a place designated by the secretary of state his or her blood type, emergency contact information, immunization data, medication data, or a statement that the person is deaf.

(19) If an applicant provides proof to the secretary of state that he or she is a minor who has been emancipated under 1968 PA 293, MCL 722.1 to 722.6, the official state personal identification card shall bear

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the designation of the individual's emancipated status in a manner prescribed by the secretary of state.

(20) The secretary of state shall inquire of each person who applies for or who holds an official state personal identification card, in person or by mail, whether he or she agrees to participate in the anatomical gift donor registry under part 101 of the public health code, 1978 PA 368, MCL 333.10101 to 333.10123. A person who has agreed to participate in the donor registry shall not be considered to have revoked that agreement solely because the person's official state personal identification card has expired. Enrollment in the donor registry constitutes a legal agreement that remains binding and in effect after the donor's death regardless of the expressed desires of the deceased donor's next of kin who may oppose the donor's anatomical gift.

(21) A valid official state personal identification card presented by the person to whom the card is issued shall be considered the same as a valid state of Michigan driver license when identification is requested except as otherwise specifically provided by law.

History: 1972, Act 222, Imd. Eff. July 25, 1972;—Am. 1975, Act 307, Eff. Jan. 1, 1976;—Am. 1977, Act 286, Eff. Mar. 30, 1978;—Am. 1980, Act 444, Imd. Eff. Jan. 15, 1981;—Am. 1984, Act 335, Eff. Oct. 1, 1985;—Am. 1986, Act 68, Imd. Eff. Apr. 7, 1986;—Am. 1989, Act 125, Imd. Eff. June 28, 1989;—Am. 1996, Act 204, Eff. Jan. 1, 1997;—Am. 1997, Act 99, Imd. Eff. Aug. 7, 1997;—Am. 1998, Act 2, Eff. July 1, 1998;—Am. 1998, Act 118, Eff. July 3, 1998;—Am. 1999, Act 89, Eff. Sept. 1, 1999;—Am. 2001, Act 238, Imd. Eff. Jan. 3, 2002;—Am. 2002, Act 553, Eff. Oct. 1, 2002;—Am. 2003, Act 143, Eff. Oct. 1, 2003;—Am. 2005, Act 143, Imd. Eff. Sept. 29, 2005;—Am. 2008, Act 31, Imd. Eff. Mar. 13, 2008;—Am. 2008, Act 40, Imd. Eff. Mar. 17, 2008.

Compiler's note: Enacting section 1 of Act 553 of 2002 provides:

"Enacting section 1. There is appropriated from the amount provided in section 310(16) of the Michigan vehicle code, 1949 PA 300, MCL 257.310, a sufficient amount to carry out the provisions of the 2002 amendatory act that amended section 2 of 1972 PA 222, MCL 28.292, and the 2002 amendatory act that provided an appropriation in section 310 of the Michigan vehicle code, 1949 PA 300, MCL 257.310."

28.293 False representation of information; violation as felony; additional violations; penalty.

Sec. 3. (1) A person who falsely represents information upon application for an official state personal identification card is guilty of a felony punishable by imprisonment for not less than 1 year but not more than 5 years, or by a fine of not less than $500.00 but not more than $5,000.00, or both.

(2) A person who is convicted of a second violation of this section is guilty of a felony punishable by imprisonment for not less than 2 years or more than 7 years, or by a fine of not less than $1,500.00 or more than $7,000.00, or both.

(3) A person who is convicted of a third or subsequent violation of this section is guilty of a felony punishable by imprisonment for not less than 5 years or more than 15 years, or by a fine of not less than $5,000.00 or more than $15,000.00, or both.

History: 1972, Act 222, Imd. Eff. July 25, 1972;—Am. 1975, Act 307, Eff. Jan. 1, 1976;—Am. 1977, Act 286, Eff. Mar. 30, 1978;—Am. 1998, Act 2, Eff. July 1, 1998.

28.294 Forfeiture of card used or displayed during commission of crime.

Sec. 4. An official state personal identification card used or displayed during the commission of a crime shall be forfeited to the secretary of state.

History: 1972, Act 222, Imd. Eff. July 25, 1972;—Am. 1975, Act 307, Eff. Jan. 1, 1976;—Am. 1977, Act 286, Eff. Mar. 30, 1978;—Am. 1984, Act 335, Eff. Oct. 1, 1985.

28.295 Conduct constituting felony or misdemeanor; penalties; exceptions.

Sec. 5. (1) A person who intentionally reproduces, alters, counterfeits, forges, or duplicates an official state personal identification card photograph, the negative of the photograph, an official state personal identification card image, an official state personal identification card, or the electronic data contained on an official state personal identification card or a part of an official state personal identification card or who uses an official state personal identification card, image, or photograph that has been reproduced, altered, counterfeited, forged, or duplicated is subject to 1 of the following:

(a) If the intent of reproduction, alteration, counterfeiting, forging, duplication, or use was to commit or aid in the commission of an offense that is a felony punishable by imprisonment for 10 or more years, the person committing the reproduction, alteration, counterfeiting, forging, duplication, or use is guilty of a felony punishable by imprisonment for not more than 10 years or a fine of not more than $20,000.00, or both.

(b) If the intent of the reproduction, alteration, counterfeiting, forging, duplication, or use was to commit or aid in the commission of an offense that is a felony punishable by imprisonment for less than 10 years or a misdemeanor punishable by imprisonment for 6 months or more, the person committing the reproduction, alteration, counterfeiting, forging, duplication, or use is guilty of a felony punishable by imprisonment for not more than 5 years, or a fine of not more than $10,000.00, or both.

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(c) If the intent of the reproduction, alteration, counterfeiting, forging, duplication, or use was to commit or aid in the commission of an offense that is a misdemeanor punishable by imprisonment for less than 6 months, the person committing the reproduction, alteration, counterfeiting, forging, duplication, or use is guilty of a misdemeanor punishable by imprisonment for not more than 1 year or a fine of not more than $2,000.00, or both.

(2) A person who sells or possesses with the intent to deliver to another a reproduced, altered, counterfeited, forged, or duplicated official state personal identification card photograph, negative of the photograph, official state personal identification card image, offical state personal identification card, or electronic data contained on an official state personal identification card or part of an official state personal identification card, or who possesses 2 or more reproduced, altered, counterfeited, forged, or duplicated official state identification card photographs, negatives of the photograph or photographs, image or images, official state identification card or cards, or electronic data contained on official state identification card or cards, is guilty of a felony punishable by imprisonment for not more than 5 years or a fine of not more than $10,000.00, or both.

(3) A person who is in possession of an altered, counterfeited, forged, or duplicated official state personal identification card photograph, negative of the photograph, official state personal identification card image, official state personal identification card, or electronic data contained on an official state personal identification card or part of an official state personal identification card is guilty of a misdemeanor punishable by imprisonment for not more than 1 year or a fine of not more than $2,000.00, or both.

(4) A person shall not steal or, without the cardholder's permission, knowingly take or knowingly remove an official state personal identification card from the person or possession of another. A person shall not use an official state personal identification card that is stolen or knowingly taken or knowingly removed from the person or possession of another. Except as provided in subsection (5), a person who violates this subsection is guilty of a misdemeanor, punishable by imprisonment for not more than 1 year.

(5) A person shall not use an official state personal identification card in the commission of a felony if the card is stolen or knowingly taken or knowingly removed from the person or possession of another. A person who violates this subsection is guilty of the penalties provided for the felony committed with the use of the card.

(6) Subsections (2) and (3) do not apply to a person who is in possession of 1 or more photocopies, reproductions, or duplications of an official state personal identification card or part of an official state personal identification card to document the person's identity for a legitimate business purpose.

(7) Subsections (1)(a) and (b) and (2) do not apply to a minor whose intent is to violate section 703 of the Michigan liquor control code of 1998, 1998 PA 58, MCL 436.1703.

History: Add. 1977, Act 286, Eff. Mar. 30, 1978;—Am. 1984, Act 335, Eff. Oct. 1, 1985;—Am. 2004, Act 149, Eff. Sept. 1, 2004.

28.295a Prohibited conduct; violation as felony; penalties.

Sec. 5a. (1) A person who makes a false representation or false certification to obtain personal information under this act, or who uses personal information for a purpose other than a permissible purpose identified in section 8 or 10, is guilty of a felony.

(2) A person who is convicted of a second violation of this section is guilty of a felony punishable by imprisonment for not less than 2 years or more than 7 years, or by a fine of not less than $1,500.00 or more than $7,000.00, or both.

(3) A person who is convicted of a third or subsequent violation of this section is guilty of a felony punishable by imprisonment for not less than 5 years or more than 15 years, or by a fine of not less than $5,000.00 or more than $15,000.00, or both.

History: Add. 1997, Act 99, Imd. Eff. Aug. 7, 1997.

28.296 Availability of records to public.

Sec. 6. Records maintained under this act, other than those declared to be confidential by law or which are restricted by law from disclosure to the public, shall be available to the public pursuant to procedures prescribed in this act, in the freedom of information act, 1976 PA 442, MCL 15.231 to 15.246, and in other applicable laws.

History: Add. 1997, Act 99, Imd. Eff. Aug. 7, 1997.

28.297 Commercial look-up service; disposition of fees; computerized central file; providing file to nongovernmental person or entity.

Sec. 7. (1) The secretary of state may provide a commercial look-up service of records maintained under this act. For each individual record looked up, the secretary of state shall charge a fee specified annually by

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the legislature, or if the legislature does not specify a fee, a market-based price established by the secretary of state. The secretary of state shall process a commercial look-up request only if the request is in a form or format as prescribed by the secretary of state. Fees collected under this subsection on and after October 1, 2005 shall be credited to the transportation administration collection fund created in section 810b of the Michigan vehicle code, 1949 PA 300, MCL 257.810b.

(2) The secretary of state shall establish and maintain a computerized central file of the information contained on application forms received under this act. The computerized central file shall be interfaced with the law enforcement information network as provided in the L.E.I.N. policy council act of 1974, 1974 PA 163, MCL 28.211 to 28.216.

(3) Except as provided in section 10(2), the secretary of state shall not provide an entire computerized central file or other file of records maintained under this act to a nongovernmental person or entity, unless the purchaser pays the prescribed fee for each individual record contained within the computerized file.

History: Add. 1997, Act 99, Imd. Eff. Aug. 7, 1997;—Am. 2005, Act 172, Imd. Eff. Oct. 12, 2005.

28.298 Disclosure of personal information; uses.

Sec. 8. (1) Except as provided in this section and in section 10, personal information in a record maintained under this act shall not be disclosed, unless the person requesting the information furnishes proof of identity satisfactory to the secretary of state and certifies that the personal information requested will be used for a permissible purpose identified in this section or in section 10. Highly restricted personal information shall be used and disclosed only as expressly permitted in section 2 or in another applicable provision of law.

(2) Personal information in a record maintained under this act shall be disclosed by the secretary of state if required to carry out the purposes of a specified federal law. As used in this section, "specified federal law" means the automobile information disclosure act, 15 USC 1231 to 1233, the former motor vehicle information and cost savings act, Public Law 92-513, the former national traffic and motor vehicle safety act of 1966, Public Law 89-563, the anti-car theft act of 1992, Public Law 102-519, the clean air act, chapter 360, 69 Stat. 322, and all federal regulations promulgated to implement these federal laws.

(3) Personal information in a record maintained under this act may be disclosed by the secretary of state as follows:

(a) For use by a federal, state, or local governmental agency, including a court or law enforcement agency, in carrying out the agency's functions, or by a private person or entity acting on behalf of a governmental agency in carrying out the agency's functions.

(b) For use in connection with matters of motor vehicle and driver safety or auto theft; motor vehicle emissions; motor vehicle product alterations, recalls, or advisories; performance monitoring of motor vehicles; motor vehicle market research activities, including survey research; and the removal of nonowner records from the original records of motor vehicle manufacturers.

(c) For use in the normal course of business by a legitimate business, including the agents, employees, and contractors of the business, but only to verify the accuracy of personal information submitted by an individual to the business or its agents, employees, or contractors, and if the information as so submitted is no longer correct, to obtain the correct information, for the sole purpose of preventing fraud by pursuing legal remedies against, or recovering on a debt against, the individual.

(d) For use in connection with a civil, criminal, administrative, or arbitral proceeding in a federal, state, or local court or governmental agency or before a self-regulatory body, including use for service of process, investigation in anticipation of litigation, and the execution or enforcement of judgments and orders, or pursuant to an order of a federal, state, or local court, an administrative agency, or a self-regulatory body.

(e) For use in legitimate research activities and in preparing statistical reports for commercial, scholarly, or academic purposes by a bona fide research organization, if the personal information is not published, redisclosed, or used to contact individuals.

(f) For use by an insurer or insurance support organization, or by a self-insured entity, or its agents, employees, or contractors, in connection with claims investigating activity, antifraud activity, rating, or underwriting.

(g) For use in providing notice to the owner of an abandoned, towed, or impounded vehicle.

(h) For use either by a private detective or private investigator licensed under the private detective license act, 1965 PA 285, MCL 338.821 to 338.851, or by a private security guard agency or alarm system contractor licensed under the private security business and security alarm act, 1968 PA 330, MCL 338.1051 to 338.1083, only for a purpose permitted under this section.

(i) For use by an employer, or the employer's agent or insurer, to obtain or verify information relating either to the holder of a commercial driver license that is required under the commercial motor vehicle safety act of 1986, Public Law 99-570, or to the holder of a chauffeur's license that is required under chapter 3 of the

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Michigan vehicle code, 1949 PA 300, MCL 257.301 to 257.329.

(j) For use by a car rental business, or its employees, agents, contractors, or service firms, for the purpose of making rental decisions.

(k) For use by a news medium in the preparation and dissemination of a report related in part or in whole to the operation of a motor vehicle or public safety. "News medium" includes a newspaper, a magazine or periodical published at regular intervals, a news service, a broadcast network, a television station, a radio station, a cablecaster, or an entity employed by any of the foregoing.

(*l*) For any use by an individual requesting information pertaining to himself or herself or requesting in writing that the secretary of state provide information pertaining to himself or herself to the individual's designee. A request for disclosure to a designee, however, may be submitted only by the individual.

(4) Copies or images of source documents retained by the secretary of state under section 1 of this act and section 5 of the enhanced driver license and enhanced official state personal identification card act, MCL 28.305, may be used and disclosed for the purposes of subsection (3)(a) and (*l*).

History: Add. 1997, Act 99, Imd. Eff. Aug. 7, 1997;—Am. 2008, Act 32, Imd. Eff. Mar. 13, 2008.

28.299 Resale or redisclosure of information; duties of recipient.

Sec. 9. (1) An authorized recipient of personal information disclosed under section 8 may resell or redisclose the information only for a use permitted under section 8.

(2) An authorized recipient of personal information disclosed under section 8 who resells or rediscloses the information shall do both of the following:

(a) Make and keep for a period of not less than 5 years records identifying each person who received personal information from the authorized recipient and the permitted use for which it was obtained.

(b) Allow a representative of the secretary of state, upon request, to inspect and copy records identifying each person who received personal information from the authorized recipient and the permitted use for which it was obtained.

History: Add. 1997, Act 99, Imd. Eff. Aug. 7, 1997.

28.299a Application for official state identification card; examination and determination.

Sec. 9a. The department shall examine and determine the genuineness, regularity, and legality of every application for an official state identification card, and may in all cases make investigation as the department considers necessary or require additional information. The department shall reject any application for an official state identification card if not satisfied of the genuineness, regularity, or legality of the application or the truth of any statement contained in the application, or for any other reason when authorized by law.

History: Add. 2008, Act 32, Imd. Eff. Mar. 13, 2008.

28.300 Furnishing list of information to federal, state, or local governmental agency; contract for sale of lists of records; surveys, marketing, and solicitations; insertion of safeguard in agreement or contract; duties of recipient of personal information; disclosure of list based on driving behavior or sanctions.

Sec. 10. (1) Upon request, the secretary of state may furnish a list of information from the records of the department maintained under this act to a federal, state, or local governmental agency for use in carrying out the agency's functions, or to a private person or entity acting on behalf of a governmental agency for use in carrying out the agency's functions. Unless otherwise prohibited by law, the secretary of state may charge the requesting agency a preparation fee to cover the cost of preparing and furnishing a list provided under this subsection if the cost of preparation exceeds $25.00, and use the revenues received from the service to defray necessary expenses. If the secretary of state sells a list of information under this subsection to a member of the state legislature, the secretary of state shall charge the same fee as the fee for the sale of information under subsection (2) unless the list of information is requested by the member of the legislature to carry out a legislative function. The secretary of state may require the requesting agency to furnish 1 or more blank computer tapes, cartridges, or other electronic media and may require the agency to execute a written memorandum of agreement as a condition of obtaining a list of information under this subsection.

(2) The secretary of state may contract for the sale of lists of records maintained under this act in bulk, in addition to those lists distributed at cost or at no cost under this section, for any of the purposes permitted under section 8(3). The secretary of state shall require each purchaser of information in bulk to execute a written purchase contract. The secretary of state shall fix a market-based price for the sale of lists of bulk information, which may include personal information. The proceeds from each sale shall be used by the secretary of state to defray the costs of list preparation and for other necessary or related expenses.

(3) The secretary of state or any other state agency shall not sell or furnish any list of information under

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subsection (2) for the purpose of surveys, marketing, and solicitations. The secretary of state shall ensure that personal information disclosed in bulk will be used, rented, or sold solely for uses permitted under this act.

(4) The secretary of state may insert any safeguard the secretary considers reasonable or necessary, including a bond requirement, in a memorandum of agreement or purchase contract executed under this section, to ensure that the information provided or sold is used only for a permissible use and that the rights of individuals and of the department are protected.

(5) An authorized recipient of personal information disclosed under this section who resells or redisclosesthe information for any of the permissible purposes described in section 8(3) shall do both of the following:

(a) Make and keep for a period of not less than 5 years records identifying each person who received personal information from the authorized recipient and the permitted purpose for which it was obtained.

(b) Allow a representative of the secretary of state, upon request, to inspect and copy records identifying each person who received personal information from the authorized recipient and the permitted purpose for which it was obtained.

(6) The secretary of state shall not disclose a list based on driving behavior or sanctions to a nongovernmental agency, including an individual.

History: Add. 1997, Act 99, Imd. Eff. Aug. 7, 1997;—Am. 2000, Act 193, Eff. Jan. 1, 2001.

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ENHANCED DRIVER LICENSE AND ENHANCED OFFICIAL STATE PERSONAL IDENTIFICATION CARD ACT
Act 23 of 2008

AN ACT to authorize the secretary of state to issue enhanced driver licenses and state personal identification cards to United States citizens who reside in Michigan to facilitate travel between the United States and Canada; to establish certain funds and prescribe duties for certain officials; and to prohibit certain conduct and prescribe penalties.

History: 2008, Act 23, Imd. Eff. Mar. 13, 2008.

The People of the State of Michigan enact:

28.301 Short title.

Sec. 1. This act shall be known and may be cited as the "enhanced driver license and enhanced official state personal identification card act".

History: 2008, Act 23, Imd. Eff. Mar. 13, 2008.

Compiler's note: Former MCL 28.301 to 28.317, deriving from Act 114 of 1939 and pertaining to kerosene inspection, were repealed by Act 47 of 1952.

28.302 Definitions.

Sec. 2. As used in this act:

(a) "Enhanced driver license" means an operator's or chauffeur's license issued to an individual under this act for the following purposes:

(*i*) Use in entering the United States at land and sea ports.

(*ii*) Use in the same manner as a standard driver license.

(b) "Enhanced official state personal identification card" means an official state personal identification card issued under this act to an individual who is a United States citizen who resides in this state for the following purposes:

(*i*) Use in entering the United States at land and sea ports.

(*ii*) Use in the same manner as a standard official state personal identification card.

(c) "Local government agency" means a county, city, village, or township in this state.

(d) "Resident" means every person who resides in this state and establishes that he or she is legally present in the United States. This definition applies to the provisions of this act only.

(e) "Resident address" means the place that is a person's legal residence as that term is defined in section 11 of the Michigan election law, 1954 PA 116, MCL 168.11.

(f) "Standard driver license" means an operator's license or chauffeur's license issued under the Michigan vehicle code, 1949 PA 300, MCL 257.1 to 257.923.

(g) "Standard official state personal identification card" means an official state personal identification card issued under 1972 PA 222, MCL 28.291 to 28.300.

History: 2008, Act 23, Imd. Eff. Mar. 13, 2008.

Compiler's note: Former MCL 28.301 to 28.317, deriving from Act 114 of 1939 and pertaining to kerosene inspection, were repealed by Act 47 of 1952.

28.303 Memorandum of understanding with federal agency; agreement to implement border-crossing initiative.

Sec. 3. (1) The secretary of state with the approval of the state administrative board created under 1921 PA 2, MCL 17.1 to 17.3, may enter into a memorandum of understanding with any federal agency for the purpose of obtaining approval of an enhanced driver license or enhanced official state personal identification card as proof of identity and citizenship for persons entering the United States at land and sea ports.

(2) In conjunction with a federal agency and with the approval of the state administrative board created under 1921 PA 2, MCL 17.1 to 17.3, the secretary of state may enter into an agreement with the United Mexican States, Canada, or a Canadian province for the purpose of implementing a border-crossing initiative.

History: 2008, Act 23, Imd. Eff. Mar. 13, 2008.

Compiler's note: Former MCL 28.301 to 28.317, deriving from Act 114 of 1939 and pertaining to kerosene inspection, were repealed by Act 47 of 1952.

28.304 Enhanced driver's license or enhanced official state personal identification card; issuance; security measures; radio frequency identification technology; requirements in

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addition to requirements for standard driver license or official state personal identification card; sanction; "sanction" defined.

Sec. 4. (1) The secretary of state may issue an enhanced driver's license or enhanced official state personal identification card to an applicant who provides satisfactory proof of his or her full legal name, United States citizenship, identity, date of birth, social security number, residence address, and a photographic identity document. An applicant may choose to apply for a standard driver license or standard official state personal identification card or an enhanced driver license or enhanced state personal identification card.

(2) An enhanced driver license or enhanced official state personal identification card shall include reasonable security measures to protect against unauthorized disclosure of personal information regarding residents of this state that is contained in the enhanced driver license or enhanced official state personal identification card.

(3) An enhanced driver license or enhanced official state personal identification card may include radio frequency identification technology that is limited to a randomly assigned number which shall be encrypted if agreed to by the department of homeland security, and does not include biometric data. The secretary of state shall ensure that the radio frequency identification technology is secure from unauthorized data access and includes reasonable security measures to protect against unauthorized disclosure of personal information. An applicant shall be required to sign a declaration acknowledging his or her understanding of the radio frequency identification technology before he or she is issued an enhanced driver license or enhanced official state personal identification card.

(4) The requirements of this act are in addition to the requirements otherwise imposed on individuals who apply for a standard driver license or standard official state personal identification card.

(5) The holder of an enhanced driver license issued under this act is subject to every licensing sanction provided under the Michigan vehicle code, 1949 PA 300, MCL 257.1 to 257.923. As used in this subsection, "licensing sanction" means the restriction, suspension, revocation, or denial of a driver license; the addition of points to a driving record; the assessment of a driver responsibility fee; the assessment of a civil fine or criminal penalty resulting from a conviction; a civil infraction determination; the imposition of probationary terms and conditions; or any other penalty provided under the Michigan vehicle code, 1949 PA 300, MCL 257.1 to 257.923.

History: 2008, Act 23, Imd. Eff. Mar. 13, 2008.

Compiler's note: Former MCL 28.301 to 28.317, deriving from Act 114 of 1939 and pertaining to kerosene inspection, were repealed by Act 47 of 1952.

28.305 Items to be provided to secretary of state; facial image or signature; display of social security number prohibited; examination and verification of application and other documentation; rejection of application; retention of copies or digital images of documents or facial image; disclosure of digital images of documents; compilation or maintenance of database limited.

Sec. 5. (1) An applicant who chooses to apply for an enhanced driver license or enhanced official state personal identification card shall provide all of the following items to the secretary of state in the manner prescribed by the secretary of state:

(a) A completed application indicating the applicant's full legal name, any legal name change resulting from the applicant's adoption, marriage, divorce, or a court order, date of birth, residence address, height, gender, eye color, social security number, signature, and, if applicable, the applicant's intention to be an organ donor as provided under section 307 of the Michigan vehicle code, 1949 PA 300, MCL 257.307, or section 2 of 1972 PA 222, MCL 28.292.

(b) Documentation demonstrating the applicant's United States citizenship, full legal name, any legal name change resulting from the applicant's adoption, marriage, divorce, or a court order, date of birth, residence address, and social security number.

(c) The applicant's signed certification that the information presented by the applicant is true and correct to the best of the applicant's knowledge.

(d) The fee prescribed under section 6.

(2) An applicant who applies for an enhanced driver license or enhanced official state personal identification card shall have his or her facial image and signature captured or reproduced by the secretary of state at the time of application. A person's facial image or signature may be made available by this state and used as follows:

(a) By a federal, state, or local government agency for any law enforcement purpose authorized by law.

(b) By another state to the extent required by federal law.

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(c) By the secretary of state for any purpose specifically authorized by law.

(d) For any other purpose as determined by the secretary of state, if a person provides his or her written authorization for the release of his or her own facial image or signature.

(e) As otherwise required by law.

(3) Except as otherwise provided under subsection (2), the secretary of state shall not disclose a person's facial image, signature, social security number, or copies or digital images of documents retained under this act.

(4) An enhanced driver license or enhanced official state personal identification card issued under this act shall not display a person's social security number on the face of the card.

(5) The secretary of state shall examine and verify the genuineness, regularity, and legality of every application and other documentation submitted to the secretary of state for an enhanced driver license or enhanced official state personal identification card, and may in all cases investigate as the secretary of state considers necessary or require additional information, and shall reject any application if not satisfied of the genuineness, regularity, and legality of the application or supporting documentation or the truth of any statement contained in the application or supporting documentation, or for any other reason authorized by law. A decision by the secretary of state to reject an application under this subsection may be appealed under section 631 of the revised judicature act of 1961, 1961 PA 236, MCL 600.631.

(6) The secretary of state shall retain copies or digital images of documents provided by the applicant to the secretary of state under this act.

(7) The facial image of an applicant for a license or card under this act who was not issued an enhanced driver license or enhanced official state personal identification card shall be retained for not less than 1 year, unless fraud is suspected, in which case a record containing the applicant's facial image and the reason for denial shall be retained for not less than 10 years.

(8) The secretary of state may disclose digital images of documents retained under this act to a federal, state, or local government agency for any law enforcement purpose authorized by law. Except as otherwise provided in this act, copies or digital images of documents retained under this act are exempt from disclosure under the freedom of information act, 1976 PA 442, MCL 15.231 to 15.246.

(9) The secretary of state shall not compile or maintain a database under this act that may be shared with a country other than the United States.

History: 2008, Act 23, Imd. Eff. Mar. 13, 2008.

Compiler's note: Former MCL 28.301 to 28.317, deriving from Act 114 of 1939 and pertaining to kerosene inspection, were repealed by Act 47 of 1952.

28.306 Fees.

Sec. 6. (1) An application for an original enhanced driver license or enhanced official state personal identification card shall be accompanied by payment of a fee of not more than $50.00.

(2) The renewal fee for an enhanced driver license or enhanced official state personal identification card renewed under this act shall be not more than $50.00. However, if an enhanced driver license or enhanced official state personal identification card is expired at the time of renewal, the fee shall be the same as the fee provided under subsection (1).

(3) Money from fees collected under subsections (1) and (2) shall be deposited into the enhanced driver license and enhanced official state personal identification card fund created in section 7 after distribution as follows:

(a) The secretary of state shall refund to each county or municipality acting as an examining officer or examining bureau $2.50 for each applicant examined for an original enhanced driver license, if the application is not denied and the money refunded is paid to the county or local treasurer and is appropriated to the county, municipality, or officer or bureau receiving the money for the purpose of carrying out this act.

(b) The state treasurer shall deposit the sum of $4.00 to the traffic law enforcement and safety fund created in section 819a of the Michigan vehicle code, 1949 PA 300, MCL 257.819a, for each person examined for an original enhanced driver license.

(c) Except as otherwise provided in subdivision (d), $4.50 of an original enhanced driver license and $6.00 of a renewal enhanced driver license shall be appropriated to the transportation economic development fund established in section 2 of 1987 PA 231, MCL 247.902, and shall not be appropriated for any other purpose in any act making appropriations of state funds.

(d) Notwithstanding subdivision (c), $2,500,000.00 shall be deposited in the state treasury and credited to the general fund, except not more than $1,000,000.00 shall be credited to the gasoline inspection and testing fund created under section 8 of the motor fuels quality act, 1984 PA 44, MCL 290.648.

(e) The money remaining after distributions are made under subdivisions (a) through (d) shall remain in the

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enhanced driver license and enhanced official state personal identification card fund created under section 7.

(4) A fee paid under this section is nonrefundable, except for administrative error.

History: 2008, Act 23, Imd. Eff. Mar. 13, 2008.

Compiler's note: Former MCL 28.301 to 28.317, deriving from Act 114 of 1939 and pertaining to kerosene inspection, were repealed by Act 47 of 1952.

28.307 Enhanced driver license and enhanced official state personal identification card fund; creation; disposition of money and assets; investment; money remaining at close of fiscal year; secretary of state as administrator; expenditure.

Sec. 7. (1) The enhanced driver license and enhanced official state personal identification card fund is created within the state treasury.

(2) The state treasurer may receive money or other assets from any source for deposit into the fund. The state treasurer shall direct the investment of the fund.

(3) Money in the fund at the close of the fiscal year shall remain in the fund and shall not lapse to the general fund.

(4) The secretary of state shall be the administrator of the fund for auditing purposes.

(5) The secretary of state shall expend money from the fund, upon appropriation, to pay the necessary expenses incurred by the secretary of state in the administration and enforcement of this act.

History: 2008, Act 23, Imd. Eff. Mar. 13, 2008.

Compiler's note: Former MCL 28.301 to 28.317, deriving from Act 114 of 1939 and pertaining to kerosene inspection, were repealed by Act 47 of 1952.

28.308 Conduct as felony; penalty.

Sec. 8. A person who makes a false certification or statement in applying for an enhanced driver license or enhanced official state personal identification card is guilty of a felony punishable by imprisonment for not more than 5 years or a fine of not more than $5,000.00, or both.

History: 2008, Act 23, Imd. Eff. Mar. 13, 2008.

Compiler's note: Former MCL 28.301 to 28.317, deriving from Act 114 of 1939 and pertaining to kerosene inspection, were repealed by Act 47 of 1952.

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DISPOSITION OF STOLEN PROPERTY
Act 203 of 1937

AN ACT to provide for the disposition and sale of stolen property recovered by the Michigan state police; and to provide for the disposition of the proceeds of sale.

History: 1937, Act 203, Eff. Oct. 29, 1937.

The People of the State of Michigan enact:

28.401 Stolen property recovered by state police; holding period.

Sec. 1. The provisions of this act shall apply to any stolen money or other property recovered by the Michigan state police which shall not be claimed within 6 months after said recovery.

History: 1937, Act 203, Eff. Oct. 29, 1937;—CL 1948, 28.401.

28.402 Stolen property recovered and unclaimed; report to state administrative board.

Sec. 2. Forthwith after the expiration of said 6 months period, the commissioner of the Michigan state police shall report to the state administrative board, listing the money or other property so recovered and held, and requesting authority from the state administrative board to turn any money over to the state treasurer to be credited to the general fund and requesting authority from the state administrative board to sell at public sale any other property so recovered and held.

History: 1937, Act 203, Eff. Oct. 29, 1937;—CL 1948, 28.402.

28.403 Stolen property; authority for sale; publication of notice.

Sec. 3. The state administrative board shall act on the request of the commissioner of the Michigan state police within 6 months after the receipt of such request. In case authority is granted to the commissioner of the Michigan state police to turn any money so recovered and held over to the state treasurer or to sell any other property so recovered and held, the commissioner of the Michigan state police shall post 3 notices in the county in which the stolen money or other property was recovered, and also publish notice in a newspaper of general circulation in such county by insertions in 2 issues of said newspaper. Said notice shall describe the money so recovered and held and also the other property so recovered and held, together with the time and place of public sale at which said other property may be purchased by the highest bidder. Up until the said date of sale, the money or other property may be claimed at the East Lansing post of the Michigan state police, and if ownership is proved, such money or other property shall be turned over to the claimant, and the sale cancelled insofar as such property is concerned.

History: 1937, Act 203, Eff. Oct. 29, 1937;—CL 1948, 28.403.

28.404 Stolen property; receipts from sale credited to general fund.

Sec. 4. After the holding of any such sale, the money received from such sale, after deducting the cost of the conducting thereof, and any other money recovered and held included in the notice provided for in section 3, shall be turned over to the state treasurer to be credited to the general fund of the state.

History: 1937, Act 203, Eff. Oct. 29, 1937;—CL 1948, 28.404.

28.405 Stolen property; claim invalid after notice and sale.

Sec. 5. Except as provided in section 6 hereof, no claim shall be valid to obtain any money or other property recovered by the Michigan state police, after notice and sale as provided in section 3 of this act, said property and money being considered as abandoned and belonging to the state of Michigan.

History: 1937, Act 203, Eff. Oct. 29, 1937;—CL 1948, 28.405.

28.406 Stolen property; claim proved after notice and sale.

Sec. 6. Provided, however, That the owner of the stolen property may prove his claim by proving the identity of the property and be reimbursed from the state treasurer in an amount not to exceed the amount paid for such goods at said sale, if such proof is accepted by the administrative board after the sale: Provided, however, That such claim shall have been filed with the state administrative board not later than 6 months after such sale.

History: 1937, Act 203, Eff. Oct. 29, 1937;—CL 1948, 28.406.

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REPORT OF STOLEN AND RECOVERED PROPERTY
Act 294 of 1945

AN ACT to provide for the reporting of certain stolen and recovered personal property to the Michigan state police; and to prescribe the powers and duties of the Michigan state police and law enforcement officers with respect thereto.

History: 1945, Act 294, Eff. Sept. 6, 1945.

The People of the State of Michigan enact:

28.411 Stolen and recovered personal property; report to state police, form.

Sec. 1. It shall be the duty of all law enforcement officers to report to the Michigan state police all stolen and all recovered personal property of a value of $25.00 or over: Provided, That a report shall not be required with respect to personal property recovered, and the owner thereof known, within 48 hours of the receipt of the report of such stolen personal property. Such reports shall be made upon forms prescribed and furnished by the Michigan state police, within 48 hours of the receipt of the report of such stolen or recovered personal property.

History: 1945, Act 294, Eff. Sept. 6, 1945;—CL 1948, 28.411.

28.412 Stolen and recovered personal property; records and files maintained.

Sec. 2. The commissioner of the Michigan state police shall maintain adequate records and files with respect to such stolen and recovered personal property, and shall report the recovery thereof to the law enforcement officer reporting the personal property as stolen. Such records and files shall be available to law enforcement officers.

History: 1945, Act 294, Eff. Sept. 6, 1945;—CL 1948, 28.412.

28.413 Motor vehicles excepted from act.

Sec. 3. The provisions of this act shall not cover or apply to stolen and recovered motor vehicles.

History: 1945, Act 294, Eff. Sept. 6, 1945;—CL 1948, 28.413.

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FIREARMS
Act 372 of 1927

AN ACT to regulate and license the selling, purchasing, possessing, and carrying of certain firearms and gas ejecting devices; to prohibit the buying, selling, or carrying of certain firearms and gas ejecting devices without a license or other authorization; to provide for the forfeiture of firearms under certain circumstances; to provide for penalties and remedies; to provide immunity from civil liability under certain circumstances; to prescribe the powers and duties of certain state and local agencies; to prohibit certain conduct against individuals who apply for or receive a license to carry a concealed pistol; to make appropriations; to prescribe certain conditions for the appropriations; and to repeal all acts and parts of acts inconsistent with this act.

History: 1927, Act 372, Eff. Sept. 5, 1927;—Am. 1929, Act 206, Imd. Eff. May 20, 1929;—Am. 1931, Act 333, Imd. Eff. June 16, 1931;—Am. 1980, Act 345, Eff. Mar. 31, 1981;—Am. 1990, Act 320, Eff. Mar. 28, 1991;—Am. 2000, Act 265, Imd. Eff. June 29, 2000;—Am. 2000, Act 381, Eff. July 1, 2001.

Popular name: CCW

Popular name: Concealed Weapons

Popular name: Right to Carry

Popular name: Shall Issue

The People of the State of Michigan enact:

****** 28.421 THIS SECTION IS AMENDED EFFECTIVE APRIL 6, 2009: See 28.421.amended ******

28.421 Definitions.

Sec. 1. As used in this act:

(a) "Felony" means that term as defined in section 1 of chapter I of the code of criminal procedure, 1927 PA 175, MCL 761.1, or a violation of a law of the United States or another state that is designated as a felony or that is punishable by death or by imprisonment for more than 1 year.

(b) "Firearm" means a weapon from which a dangerous projectile may be propelled by an explosive, or by gas or air. Firearm does not include a smooth bore rifle or handgun designed and manufactured exclusively for propelling by a spring, or by gas or air, BB's not exceeding .177 caliber.

(c) "Misdemeanor" means a violation of a penal law of this state or violation of a local ordinance substantially corresponding to a violation of a penal law of this state that is not a felony or a violation of an order, rule, or regulation of a state agency that is punishable by imprisonment or a fine that is not a civil fine, or both.

(d) "Peace officer" means, except as otherwise provided in this act, an individual who is employed as a law enforcement officer, as that term is defined under section 2 of the commission on law enforcement standards act, 1965 PA 203, MCL 28.602, by this state or another state, a political subdivision of this state or another state, or the United States, and who is required to carry a firearm in the course of his or her duties as a law enforcement officer.

(e) "Pistol" means a loaded or unloaded firearm that is 30 inches or less in length, or a loaded or unloaded firearm that by its construction and appearance conceals it as a firearm.

(f) "Purchaser" means a person who receives a pistol from another person by purchase or gift.

(g) "Reserve peace officer", "auxiliary officer", or "reserve officer" means, except as otherwise provided in this act, an individual authorized on a voluntary or irregular basis by a duly authorized police agency of this state or a political subdivision of this state to act as a law enforcement officer, who is responsible for the preservation of the peace, the prevention and detection of crime, and the enforcement of the general criminal laws of this state, and who is otherwise eligible to possess a firearm under this act.

(h) "Retired police officer" or "retired law enforcement officer" means an individual who was a certified police officer or certified law enforcement officer as those terms are defined under section 2(k) of the commission on the law enforcement standards act, 1965 PA 203, MCL 28.602, and retired in good standing from his or her employment as a police officer or law enforcement officer.

(i) "Seller" means a person who sells or gives a pistol to another person.

History: 1927, Act 372, Eff. Sept. 5, 1927;—CL 1929, 16749;—CL 1948, 28.421;—Am. 1964, Act 216, Eff. Aug. 28, 1964;—Am. 1992, Act 219, Imd. Eff. Oct. 13, 1992;—Am. 2000, Act 381, Eff. July 1, 2001;—Am. 2002, Act 719, Eff. July 1, 2003.

Popular name: CCW

Popular name: Concealed Weapons

Popular name: Right to Carry

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Popular name: Shall Issue

****** 28.421.amended THIS AMENDED SECTION IS EFFECTIVE APRIL 6, 2009 ******

28.421.amended Definitions.

Sec. 1. As used in this act:

(a) "Felony" means that term as defined in section 1 of chapter I of the code of criminal procedure, 1927 PA 175, MCL 761.1, or a violation of a law of the United States or another state that is designated as a felony or that is punishable by death or by imprisonment for more than 1 year.

(b) "Firearm" means a weapon from which a dangerous projectile may be propelled by an explosive, or by gas or air. Firearm does not include a smooth bore rifle or handgun designed and manufactured exclusively for propelling by a spring, or by gas or air, BB's not exceeding .177 caliber.

(c) "Misdemeanor" means a violation of a penal law of this state or violation of a local ordinance substantially corresponding to a violation of a penal law of this state that is not a felony or a violation of an order, rule, or regulation of a state agency that is punishable by imprisonment or a fine that is not a civil fine, or both.

(d) "Peace officer" means, except as otherwise provided in this act, an individual who is employed as a law enforcement officer, as that term is defined under section 2 of the commission on law enforcement standards act, 1965 PA 203, MCL 28.602, by this state or another state, a political subdivision of this state or another state, or the United States, and who is required to carry a firearm in the course of his or her duties as a law enforcement officer.

(e) "Pistol" means a loaded or unloaded firearm that is 30 inches or less in length, or a loaded or unloaded firearm that by its construction and appearance conceals it as a firearm.

(f) "Purchaser" means a person who receives a pistol from another person by purchase or gift.

(g) "Reserve peace officer", "auxiliary officer", or "reserve officer" means, except as otherwise provided in this act, an individual authorized on a voluntary or irregular basis by a duly authorized police agency of this state or a political subdivision of this state to act as a law enforcement officer, who is responsible for the preservation of the peace, the prevention and detection of crime, and the enforcement of the general criminal laws of this state, and who is otherwise eligible to possess a firearm under this act.

(h) "Retired police officer" or "retired law enforcement officer" means an individual who was a police officer or law enforcement officer who was certified as described under section 9a of the commission on the law enforcement standards act, 1965 PA 203, MCL 28.609a, and retired in good standing from his or her employment as a police officer or law enforcement officer.

(i) "Seller" means a person who sells or gives a pistol to another person.

(j) "State court judge" means a judge of the district court, circuit court, probate court, or court of appeals or justice of the supreme court of this state who is serving either by election or appointment.

(k) "State court retired judge" means a judge or justice described in subdivision (j) who is retired, or a retired judge of the recorders court.

History: 1927, Act 372, Eff. Sept. 5, 1927;—CL 1929, 16749;—CL 1948, 28.421;—Am. 1964, Act 216, Eff. Aug. 28, 1964;—Am. 1992, Act 219, Imd. Eff. Oct. 13, 1992;—Am. 2000, Act 381, Eff. July 1, 2001;—Am. 2002, Act 719, Eff. July 1, 2003;—Am. 2008, Act 407, Eff. Apr. 6, 2009.

Popular name: CCW

Popular name: Concealed Weapons

Popular name: Right to Carry

Popular name: Shall Issue

28.421a Concealed pistol licenses; issuance; creation of standardized system.

Sec. 1a. It is the intent of the legislature to create a standardized system for issuing concealed pistol licenses to prevent criminals and other violent individuals from obtaining a license to carry a concealed pistol, to allow law abiding residents to obtain a license to carry a concealed pistol, and to prescribe the rights and responsibilities of individuals who have obtained a license to carry a concealed pistol. It is also the intent of the legislature to grant an applicant the right to know why his or her application for a concealed pistol license is denied and to create a process by which an applicant may appeal that denial.

History: Add. 2000, Act 381, Eff. July 1, 2001.

Popular name: CCW

Popular name: Concealed Weapons

Popular name: Right to Carry

Popular name: Shall Issue

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28.422 License to purchase, carry, possess, or transport pistol; issuance; qualifications; applications; sale of pistol; exemptions; nonresidents; basic pistol safety brochure; forging application; implementation during business hours.

Sec. 2. (1) Except as otherwise provided in this section, a person shall not purchase, carry, possess, or transport a pistol in this state without first having obtained a license for the pistol as prescribed in this section.

(2) A person who brings a pistol into this state who is on leave from active duty with the armed forces of the United States or who has been discharged from active duty with the armed forces of the United States shall obtain a license for the pistol within 30 days after his or her arrival in this state.

(3) The commissioner or chief of police of a city, township, or village police department that issues licenses to purchase, carry, possess, or transport pistols, or his or her duly authorized deputy, or the sheriff or his or her duly authorized deputy, in the parts of a county not included within a city, township, or village having an organized police department, in discharging the duty to issue licenses shall with due speed and diligence issue licenses to purchase, carry, possess, or transport pistols to qualified applicants residing within the city, village, township, or county, as applicable unless he or she has probable cause to believe that the applicant would be a threat to himself or herself or to other individuals, or would commit an offense with the pistol that would violate a law of this or another state or of the United States. An applicant is qualified if all of the following circumstances exist:

(a) The person is not subject to an order or disposition for which he or she has received notice and an opportunity for a hearing, and which was entered into the law enforcement information network pursuant to any of the following:

(*i*) Section 464a(1) of the mental health code, 1974 PA 258, MCL 330.1464a.

(*ii*) Section 5107 of the estates and protected individuals code, 1998 PA 386, MCL 700.5107, or section 444a of former 1978 PA 642.

(*iii*) Section 2950(10) of the revised judicature act of 1961, 1961 PA 236, MCL 600.2950.

(*iv*) Section 2950a(7) of the revised judicature act of 1961, 1961 PA 236, MCL 600.2950a.

(*v*) Section 14 of 1846 RS 84, MCL 552.14.

(*vi*) Section 6b(5) of chapter V of the code of criminal procedure, 1927 PA 175, MCL 765.6b, if the order has a condition imposed under section 6b(3) of chapter V of the code of criminal procedure, 1927 PA 175, MCL 765.6b.

(*vii*) Section 16b(1) of chapter IX of the code of criminal procedure, 1927 PA 175, MCL 769.16b.

(b) The person is 18 years of age or older or, if the seller is licensed under 18 USC 923, is 21 years of age or older.

(c) The person is a citizen of the United States and is a legal resident of this state. For the purposes of this section, a person shall be considered a legal resident of this state if any of the following apply:

(*i*) The person has a valid, lawfully obtained Michigan driver license issued under the Michigan vehicle code, 1949 PA 300, MCL 257.1 to 257.923, or an official state personal identification card issued under 1972 PA 222, MCL 28.291 to 28.300.

(*ii*) The person is lawfully registered to vote in this state.

(*iii*) The person is on active duty status with the United States armed forces and is stationed outside of this state, but the person's home of record is in this state.

(*iv*) The person is on active duty status with the United States armed forces and is permanently stationed in this state, but the person's home of record is in another state.

(d) A felony charge or a criminal charge listed in section 5b against the person is not pending at the time of application.

(e) The person is not prohibited from possessing, using, transporting, selling, purchasing, carrying, shipping, receiving, or distributing a firearm under section 224f of the Michigan penal code, 1931 PA 328, MCL 750.224f.

(f) The person has not been adjudged insane in this state or elsewhere unless he or she has been adjudged restored to sanity by court order.

(g) The person is not under an order of involuntary commitment in an inpatient or outpatient setting due to mental illness.

(h) The person has not been adjudged legally incapacitated in this state or elsewhere. This subdivision does not apply to a person who has had his or her legal capacity restored by order of the court.

(i) The person correctly answers 70% or more of the questions on a basic pistol safety review questionnaire approved by the department of state police and provided to the individual free of charge by the licensing authority. If the person fails to correctly answer 70% or more of the questions on the basic pistol safety review questionnaire, the licensing authority shall inform the person of the questions he or she answered

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incorrectly and allow the person to attempt to complete another basic pistol safety review questionnaire. The person shall not be allowed to attempt to complete more than 2 basic pistol safety review questionnaires on any single day. The licensing authority shall allow the person to attempt to complete the questionnaire during normal business hours on the day the person applies for his or her license.

(4) Applications for licenses under this section shall be signed by the applicant under oath upon forms provided by the director of the department of state police. Licenses to purchase, carry, possess, or transport pistols shall be executed in quadruplicate upon forms provided by the director of the department of state police and shall be signed by the licensing authority. Four copies of the license shall be delivered to the applicant by the licensing authority. A license is void unless used within 10 days after the date it is issued.

(5) If an individual purchases or otherwise acquires a pistol, the seller shall fill out the license forms describing the pistol, together with the date of sale or acquisition, and sign his or her name in ink indicating that the pistol was sold to or otherwise acquired by the purchaser. The purchaser shall also sign his or her name in ink indicating the purchase or other acquisition of the pistol from the seller. The seller may retain a copy of the license as a record of the transaction. The purchaser shall receive 3 copies of the license. The purchaser shall return 2 copies of the license to the licensing authority within 10 days after the date the pistol is purchased or acquired. The return of the copies to the licensing authority may be made in person or may be made by first-class mail or certified mail sent within the 10-day period to the proper address of the licensing authority. A purchaser who fails to comply with the requirements of this subsection is responsible for a state civil infraction and may be fined not more than $250.00. If a purchaser is found responsible for a state civil infraction under this subsection, the court shall notify the department of state police of that determination.

(6) Within 48 hours after receiving the license copies returned under subsection (5), the licensing authority shall forward 1 copy of the license to the department of state police. The licensing authority shall retain the other copy of the license as an official record for not less than 6 years. Within 10 days after receiving the license copies returned under subsection (5), the licensing authority shall electronically enter the information into the pistol entry database as required by the department of state police if it has the ability to electronically enter that information. If the licensing authority does not have that ability, the licensing authority shall provide that information to the department of state police in a manner otherwise required by the department of state police. Any licensing authority that provided pistol descriptions to the department of state police under former section 9 of this act shall continue to provide pistol descriptions to the department of state police under this subsection. The purchaser has the right to obtain a copy of the information placed in the pistol entry database under this subsection to verify the accuracy of that information. The licensing authority may charge a fee not to exceed $1.00 for the cost of providing the copy. The licensee may carry, use, possess, and transport the pistol for 30 days beginning on the date of purchase or acquisition only while he or she is in possession of his or her copy of the license. However, the person is not required to have the license in his or her possession while carrying, using, possessing, or transporting the pistol after this period.

(7) This section does not apply to the purchase of pistols from wholesalers by dealers regularly engaged in the business of selling pistols at retail, or to the sale, barter, or exchange of pistols kept as relics or curios not made for modern ammunition or permanently deactivated. This section does not prevent the transfer of ownership of pistols that are inherited if the license to purchase is approved by the commissioner or chief of police, sheriff, or their authorized deputies, and signed by the personal representative of the estate or by the next of kin having authority to dispose of the pistol.

(8) An individual who is not a resident of this state is not required to obtain a license under this section if all of the following conditions apply:

(a) The individual is licensed in his or her state of residence to purchase, carry, or transport a pistol.

(b) The individual is in possession of the license described in subdivision (a).

(c) The individual is the owner of the pistol he or she possesses, carries, or transports.

(d) The individual possesses the pistol for a lawful purpose as that term is defined in section 231a of the Michigan penal code, 1931 PA 328, MCL 750.231a.

(e) The individual is in this state for a period of 180 days or less and does not intend to establish residency in this state.

(9) An individual who is a nonresident of this state shall present the license described in subsection (8)(a) upon the demand of a police officer. An individual who violates this subsection is guilty of a misdemeanor punishable by imprisonment for not more than 90 days or a fine of not more than $100.00, or both.

(10) The licensing authority may require a person claiming active duty status with the United States armed forces to provide proof of 1 or both of the following:

(a) The person's home of record.

(b) Permanent active duty assignment in this state.

(11) This section does not apply to a person who is younger than the age required under subsection (3)(b)

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and who possesses a pistol if all of the following conditions apply:

(a) The person is not otherwise prohibited from possessing that pistol.

(b) The person is at a recognized target range.

(c) The person possesses the pistol for the purpose of target practice or instruction in the safe use of a pistol.

(d) The person's parent or guardian is physically present and supervising the person.

(e) The owner of the pistol is physically present.

(12) This section does not apply to a person who possesses a pistol if all of the following conditions apply:

(a) The person is not otherwise prohibited from possessing a pistol.

(b) The person is at a recognized target range or shooting facility.

(c) The person possesses the pistol for the purpose of target practice or instruction in the safe use of a pistol.

(d) The owner of the pistol is physically present and supervising the use of the pistol.

(13) The licensing authority shall provide a basic pistol safety brochure to each applicant for a license under this section before the applicant answers the basic pistol safety review questionnaire. A basic pistol safety brochure shall contain, but is not limited to providing, information on all of the following subjects:

(a) Rules for safe handling and use of pistols.

(b) Safe storage of pistols.

(c) Nomenclature and description of various types of pistols.

(d) The responsibilities of owning a pistol.

(14) The basic pistol safety brochure shall be supplied in addition to the safety pamphlet required by section 9b.

(15) The basic pistol safety brochure required in subsection (13) shall be produced by a national nonprofit membership organization that provides voluntary pistol safety programs that include training individuals in the safe handling and use of pistols.

(16) A person who forges any matter on an application for a license under this section is guilty of a felony, punishable by imprisonment for not more than 4 years or a fine of not more than $2,000.00, or both.

(17) A licensing authority shall implement this section during all of the licensing authority's normal business hours and shall set hours for implementation that allow an applicant to use the license within the time period set forth in subsection (4).

History: 1927, Act 372, Eff. Sept. 5, 1927;—CL 1929, 16750;—Am. 1931, Act 333, Imd. Eff. June 16, 1931;—Am. 1941, Act 112, Imd. Eff. May 21, 1941;—Am. 1943, Act 51, Imd. Eff. Mar. 30, 1943;—CL 1948, 28.422;—Am. 1949, Act 170, Eff. Sept. 23, 1949;—Am. 1957, Act 259, Eff. Sept. 27, 1957;—Am. 1964, Act 216, Eff. Aug. 28, 1964;—Am. 1967, Act 158, Eff. Nov. 2, 1967;—Am. 1968, Act 301, Eff. Nov. 15, 1968;—Am. 1972, Act 15, Imd. Eff. Feb. 19, 1972;—Am. 1986, Act 161, Eff. Aug. 1, 1986;—Am. 1990, Act 320, Eff. Mar. 28, 1991;—Am. 1992, Act 219, Imd. Eff. Oct. 13, 1992;—Am. 1992, Act 220, Imd. Eff. Oct. 13, 1992;—Am. 1994, Act 338, Eff. Apr. 1, 1996;—Am. 2004, Act 101, Imd. Eff. May 13, 2004;—Am. 2008, Act 195, Eff. Jan. 7, 2009;—Am. 2008, Act 406, Imd. Eff. Jan. 6, 2009.

Constitutionality: The Michigan Court of Appeals held in *Chan v City of Troy*, 220 Mich App 376; 559 NW2d 374 (1997), that the citizen requirement, now MCL 28.422(3)(c), for a permit to purchase a pistol contained in MCL 28.422(3)(b) violates the Equal Protection Clause of the Fourteenth Amendment to the United States Constitution and is unconstitutional.

Popular name: CCW

Popular name: Concealed Weapons

Popular name: Right to Carry

Popular name: Shall Issue

28.422a Individual licensed under MCL 28.425b; completion of record by seller; duties of purchaser; noncompliance as state civil infraction; penalty; forwarding copy of record to state police; exemption; materially false statement as felony; penalty; rules.

Sec. 2a. (1) An individual who is licensed under section 5b to carry a concealed pistol is not required to obtain a license under section 2 to purchase, carry, possess, or transport a pistol.

(2) If an individual licensed under section 5b purchases or otherwise acquires a pistol, the seller shall complete a record in quadruplicate on a form provided by the department of state police. The record shall include the purchaser's concealed weapon license number. The purchaser shall sign the record. The seller may retain 1 copy of the record. The purchaser shall receive 3 copies of the record and forward 2 copies to the police department of the city, village, or township in which the purchaser resides, or, if the purchaser does not reside in a city, village, or township having a police department, to the county sheriff, within 10 days following the purchase or acquisition. The return of the copies to the police department or county sheriff may be made in person or may be made by first-class mail or certified mail sent within the 10-day period to the

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proper address of the police department or county sheriff. A purchaser who fails to comply with the requirements of this subsection is responsible for a state civil infraction and may be fined not more than $250.00. If a purchaser is found responsible for a state civil infraction under this subsection, the court shall notify the department of state police and the concealed weapon licensing board that issued the license of that determination.

(3) Within 48 hours after receiving the record copies returned under subsection (2), the police department or county sheriff shall forward 1 copy of the record to the department of state police. The police department or county sheriff shall retain the other copy of the record as an official record for not less than 6 years. Within 10 days after receiving the record copies returned under subsection (2), the police department or county sheriff shall electronically enter the information into the pistol entry database as required by the department of state police if it has the ability to electronically enter that information. If the police department or county sheriff does not have that ability, the police department or county sheriff shall provide that information to the department of state police in a manner otherwise required by the department of state police. Any police department or county sheriff that provided pistol descriptions to the department of state police under former section 9 of this act shall continue to provide pistol descriptions to the department of state police under this subsection. The purchaser has the right to obtain a copy of the information placed in the pistol entry database under this subsection to verify the accuracy of that information. The police department or county sheriff may charge a fee not to exceed $1.00 for the cost of providing the copy. The purchaser may carry, use, possess, and transport the pistol for 30 days beginning on the date of purchase or acquisition only while he or she is in possession of his or her copy of the record. However, the person is not required to have the record in his or her possession while carrying, using, possessing, or transporting the pistol after this period.

(4) This section does not apply to a person or entity exempt under section 2(7).

(5) An individual who makes a material false statement on a sales record under this section is guilty of a felony punishable by imprisonment for not more than 4 years or a fine of not more than $2,500.00, or both.

(6) The department of state police may promulgate rules to implement this section.

History: Add. 2000, Act 381, Eff. July 1, 2001;—Am. 2008, Act 194, Eff. Jan. 7, 2009.

Compiler's note: Former MCL 28.422a, which pertained to a basic pistol safety brochure, was repealed by Act 220 of 1992, Imd. Eff. Oct. 13, 1992.

Popular name: CCW

Popular name: Concealed Weapons

Popular name: Right to Carry

Popular name: Shall Issue

28.422b Entry of order or disposition into law enforcement information network; written notice; person subject of order; request to amend inaccuracy; notice of grant or denial of request; hearing; exemption from public disclosure; entry of personal protection order; service required.

Sec. 2b. (1) Except as provided in subsection (6), upon entry of an order or disposition into the law enforcement information network under any provision of law described in section 2(3)(a), the department of state police shall immediately send written notice of that entry to the person who is the subject of the order or disposition. The notice shall be sent by first-class mail to the last known address of the person. The notice shall include at least all of the following:

(a) The name of the person.

(b) The date the order or disposition was entered into the law enforcement information network.

(c) A statement that the person cannot obtain a license to purchase a pistol or obtain a concealed weapon license until the order or disposition is removed from the law enforcement information network.

(d) A statement that the person may request that the state police correct or expunge inaccurate information entered into the law enforcement information network.

(2) A person who is the subject of an order entered into the law enforcement information network under any provision of law described in section 2(3)(a) may request that the department of state police do either of the following:

(a) Amend an inaccuracy in the information entered into the law enforcement information network under any provision of law described in section 2(3)(a).

(b) Expunge the person's name and other information concerning the person from the law enforcement information network regarding 1 or more specific entries in the law enforcement information network under any provision of law described in section 2(3)(a) because 1 or more of the following circumstances exist:

(*i*) The person is not subject to an order of involuntary commitment in an inpatient or outpatient setting due

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to mental illness.

(*ii*) The person is not subject to an order or disposition determining that the person is legally incapacitated.

(*iii*) The person is not subject to a personal protection order issued under any of the following:

(A) Section 2950 of the revised judicature act of 1961, 1961 PA 236, MCL 600.2950.

(B) Section 2950a of the revised judicature act of 1961, 1961 PA 236, MCL 600.2950a.

(C) Section 14 of 1846 RS 84, MCL 552.14.

(*iv*) The person is not subject to an order for release subject to protective conditions that prohibits the purchase or possession of a firearm by the person issued under section 6b of chapter V of the code of criminal procedure, 1927 PA 175, MCL 765.6b.

(3) Before the expiration of 30 days after a request is made to amend an inaccuracy in the law enforcement information network under subsection (2)(a) or to expunge 1 or more specific entries from the law enforcement information network under subsection (2)(b)(*i*) to (*iv*), the department of state police shall conduct an investigation concerning the accuracy of the information contained in the law enforcement information network, either grant or deny the request and provide the person with written notice of that grant or denial. A notice of denial shall include a statement specifying the basis of the denial, and that a person may appeal the denial pursuant to the administrative procedures act of 1969, 1969 PA 306, MCL 24.201 to 24.328.

(4) If the department of state police refuses a request by a person for amendment or expunction under subsection (2), or fails to act within 30 days after receiving the request under subsection (2), the person may request a hearing before a hearing officer appointed by the department of state police for a determination of whether information entered into the law enforcement information network should be amended or expunged because it is inaccurate or false. The department of state police shall conduct the hearing pursuant to the administrative procedures act of 1969, 1969 PA 306, MCL 24.201 to 24.328.

(5) Information contained in an order or disposition filed with the department of state police under any provision of law described in section 2(3)(a)(*i*) to (*vii*) is exempt from public disclosure under the freedom of information act, 1976 PA 442, MCL 15.231 to 15.246.

(6) The department of state police shall not send written notice of an entry of an order or disposition into the law enforcement information network as required for a personal protection order issued under section 2950 or 2950a of the revised judicature act of 1961, 1961 PA 236, MCL 600.2950 and 600.2950a, until that department has received notice that the respondent of the order has been served with or has received notice of the personal protection order.

History: Add. 1994, Act 338, Eff. Apr. 1, 1996;—Am. 2001, Act 199, Eff. Apr. 1, 2002.

Popular name: CCW

Popular name: Concealed Weapons

Popular name: Right to Carry

Popular name: Shall Issue

28.423 Repealed. 2000, Act 381, Eff. July 1, 2001.

Compiler's note: The repealed section pertained to application fee.

Popular name: CCW

Popular name: Concealed Weapons

Popular name: Right to Carry

Popular name: Shall Issue

28.424 Restoration of rights by concealed weapons licensing board; application; fee; determination; circumstances; judicial review.

Sec. 4. (1) A person who is prohibited from possessing, using, transporting, selling, purchasing, carrying, shipping, receiving, or distributing a firearm under section 224f(2) of the Michigan penal code, Act No. 328 of the Public Acts of 1931, being section 750.224f of the Michigan Compiled Laws, may apply to the concealed weapons licensing board in the county in which he or she resides for restoration of those rights.

(2) Not more than 1 application may be submitted under subsection (1) in any calendar year. The concealed weapons licensing board may charge a fee of not more than $10.00 for the actual and necessary expenses of each application.

(3) The concealed weapons licensing board shall, by written order of the board, restore the rights of a person to possess, use, transport, sell, purchase, carry, ship, receive, or distribute a firearm if the board determines, by clear and convincing evidence, that all of the following circumstances exist:

(a) The person properly submitted an application for restoration of those rights as provided under this section.

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(b) The expiration of 5 years after all of the following circumstances:

(*i*) The person has paid all fines imposed for the violation resulting in the prohibition.

(*ii*) The person has served all terms of imprisonment imposed for the violation resulting in the prohibition.

(*iii*) The person has successfully completed all conditions of probation or parole imposed for the violation resulting in the prohibition.

(c) The person's record and reputation are such that the person is not likely to act in a manner dangerous to the safety of other persons.

(4) If the concealed weapons licensing board pursuant to subsection (3) refuses to restore a right under this section, the person may petition the circuit court for review of that decision.

History: Add. 1992, Act 219, Imd. Eff. Oct. 13, 1992.

Compiler's note: Former section 4 of this act was not compiled.

Popular name: CCW

Popular name: Concealed Weapons

Popular name: Right to Carry

Popular name: Shall Issue

28.425 Concealed pistol application kits.

Sec. 5. (1) County sheriffs, local police agencies, and county clerks shall provide concealed pistol application kits during normal business hours and free of charge to individuals who wish to apply for licenses to carry concealed pistols. Each kit shall only contain all of the following:

(a) A concealed pistol license application form provided by the director of the department of state police.

(b) The fingerprint cards required under section 5b(11).

(c) Written information regarding the procedures involved in obtaining a license to carry a concealed pistol, including information regarding the right to appeal the denial of a license and the form required for that appeal.

(d) Written information identifying entities that offer the training required under section 5b(7)(c).

(2) A county sheriff, local police agency, or county clerk shall not deny an individual the right to receive a concealed pistol application kit under this section.

(3) An individual who is denied an application kit under this section and obtains an order of mandamus directing the concealed weapon licensing board to provide him or her with the application kit shall be awarded his or her actual and reasonable costs and attorney fees for obtaining the order.

(4) The department of state police shall provide the application kits required under this section to county sheriffs, local law enforcement agencies, and county clerks in sufficient quantities to meet demand. The department of state police shall not charge a fee for the kits.

History: Add. 2000, Act 381, Eff. July 1, 2001.

Popular name: CCW

Popular name: Concealed Weapons

Popular name: Right to Carry

Popular name: Shall Issue

28.425a Concealed weapon licensing board; membership; quorum; voting; clerk; authority and duties; panel; investigation of license applicant; temporary license; compilation of firearms laws by legislative service bureau; distribution; statement.

Sec. 5a. (1) Each county shall have a concealed weapon licensing board. The concealed weapon licensing board of each county shall have the following members:

(a) The county prosecuting attorney or his or her designee. However, if the county prosecuting attorney decides that he or she does not want to be a member of the concealed weapon licensing board, he or she shall notify the county board of commissioners in writing that he or she does not want to be a member of the concealed weapon licensing board for the balance of his or her term in office. The county board of commissioners shall then appoint a replacement for the prosecuting attorney who is a firearms instructor who has the qualifications prescribed in section 5j(1)(c). The person who replaces the prosecuting attorney shall serve on the concealed weapon licensing board in place of the prosecuting attorney for the remaining term of the county prosecuting attorney unless removed for cause by the county board of commissioners. If a vacancy occurs on the concealed weapon licensing board of the person appointed pursuant to this section during the term of office of the county prosecuting attorney, the county board of commissioners shall appoint a replacement person who is a firearms instructor who has the qualifications prescribed in section 5j(1)(c).

(b) The county sheriff or his or her designee.

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(c) The director of the department of state police or his or her designee.

(2) If a prosecuting attorney chooses not to be a member of the concealed weapon licensing board, all of the following apply:

(a) The prosecuting attorney shall be notified of all applications received by the concealed weapon licensing board.

(b) The prosecuting attorney shall be given an opportunity to object to granting a license to carry a concealed pistol and present evidence bearing directly on an applicant's suitability to carry a concealed pistol safely.

(c) The prosecuting attorney shall disclose to the concealed weapon licensing board any information of which he or she has actual knowledge that bears directly on an applicant's suitability to carry a concealed pistol safely.

(3) The county prosecuting attorney or his or her designee shall serve as chairperson of the board unless the prosecuting attorney does not want to be a member of the concealed weapon licensing board, in which case the concealed weapon licensing board shall elect its chairperson. Two members of the concealed weapon licensing board constitute a quorum of the concealed weapon licensing board. The business of the concealed weapon licensing board shall be conducted by a majority vote of all of the members of the concealed weapon licensing board.

(4) The county clerk shall serve as the clerk of the concealed weapon licensing board.

(5) Except as otherwise provided in this act, the concealed weapon licensing board has exclusive authority to issue, deny, revoke, or suspend a license to carry a concealed pistol. The concealed weapon licensing board shall perform other duties as provided by law.

(6) The concealed weapon licensing board may convene not more than 3 panels to assist the board in evaluating applicants. The panels shall be composed of representatives as prescribed in subsection (1). The panels do not have the authority to issue, deny, revoke, or suspend a license.

(7) The concealed weapon licensing board may investigate the applicant for a license to carry a concealed pistol. The investigation shall be restricted to determining only whether the applicant is eligible under this act to receive a license to carry a concealed pistol, and the investigation regarding the issuance of a license shall end after that determination is made. The concealed weapon licensing board may require the applicant to appear before the board at a mutually agreed-upon time for a conference. The applicant's failure or refusal to appear without valid reason before the concealed weapon licensing board as provided in this subsection is grounds for the board to deny issuance of a license to carry a concealed pistol to that applicant.

(8) If the concealed weapon licensing board determines there is probable cause to believe the safety of the applicant or the safety of a member of the applicant's family is endangered by the applicant's inability to immediately obtain a license to carry a concealed pistol, the concealed weapon licensing board may, pending issuance of a license, issue a temporary license to the individual to carry a concealed pistol. A temporary license shall be on a form provided by the department of state police. A temporary license shall be unrestricted and shall be valid for not more than 180 days. A temporary license may be renewed for 1 additional period of not more than 180 days. A temporary license is, for all other purposes of this act, a license to carry a concealed pistol.

(9) The legislative service bureau shall compile the firearms laws of this state, including laws that apply to carrying a concealed pistol, and shall provide copies of the compilation to each concealed weapon licensing board in this state for distribution under this subsection. A concealed weapon licensing board shall distribute a copy of the compilation to each individual who applies for a license to carry a concealed pistol at the time the application is submitted. The concealed weapon licensing board shall require the applicant to sign a written statement acknowledging that he or she has received a copy of the compilation. An individual is not eligible to receive a license to carry a concealed pistol until he or she has signed the statement.

History: Add. 2000, Act 381, Eff. July 1, 2001.

Popular name: CCW

Popular name: Concealed Weapons

Popular name: Right to Carry

Popular name: Shall Issue

28.425b License application; fee; verification of requirements; determination; circumstances for issuance; fingerprints; issuance or denial; temporary license; suspension or revocation of license; definitions.

Sec. 5b. (1) To obtain a license to carry a concealed pistol, an individual shall apply to the concealed weapon licensing board in the county in which that individual resides. The application shall be filed with the

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county clerk during the county clerk's normal business hours. The application shall be on a form provided by the director of the department of state police and shall allow the applicant to designate whether the applicant seeks a temporary license. The application shall be signed under oath by the applicant. The oath shall be administered by the county clerk or his or her representative. The application shall contain all of the following information:

(a) The applicant's legal name and date of birth and the address of his or her primary residence. If the applicant resides in a city, village, or township that has a police department, the name of the police department. Information received under this subdivision is confidential, is not subject to disclosure under the freedom of information act, 1976 PA 442, MCL 15.231 to 15.246, and shall not be disclosed to any person except for purposes of this act or for law enforcement purposes.

(b) A statement by the applicant that the applicant meets the criteria for a license under this act to carry a concealed pistol.

(c) A statement by the applicant authorizing the concealed weapon licensing board to access any record, including any medical record, pertaining to the applicant's qualifications for a license to carry a concealed pistol under this act. The applicant may request that information received by the concealed weapon licensing board under this subdivision be reviewed in a closed session. If the applicant requests that the session be closed, the concealed weapon licensing board shall close the session only for purposes of this subdivision. The applicant and his or her representative have the right to be present in the closed session. Medical records and personal identifying information received by the concealed weapon licensing board under this subdivision is confidential, is not subject to disclosure under the freedom of information act, 1976 PA 442, MCL 15.231 to 15.246, and shall not be disclosed to any person except for purposes of this act or for law enforcement purposes or if the applicant is convicted of a felony involving a pistol.

(d) A statement by the applicant regarding whether he or she has a history of mental illness that would disqualify him or her under subsection (7)(j) to (*l*) from receiving a license to carry a concealed pistol, and authorizing the concealed weapon licensing board to access the mental health records of the applicant relating to his or her mental health history. The applicant may request that information received by the concealed weapon licensing board under this subdivision be reviewed in a closed session. If the applicant requests that the session be closed, the concealed weapon licensing board shall close the session only for purposes of this subdivision. The applicant and his or her representative have the right to be present in the closed session. Medical records and personal identifying information received by the concealed weapon licensing board under this subdivision is confidential, is not subject to disclosure under the freedom of information act, 1976 PA 442, MCL 15.231 to 15.246, and shall not be disclosed to any person except for purposes of this act or for law enforcement purposes.

(e) A statement by the applicant regarding whether he or she has ever been convicted in this state or elsewhere for any of the following:

(*i*) Any felony.

(*ii*) A misdemeanor listed under subsection (7)(h) or (i), if the applicant was convicted of violating that misdemeanor in the 8 years immediately preceding the date of the application.

(f) A statement by the applicant whether he or she has been dishonorably discharged from the United States armed forces.

(g) If the applicant seeks a temporary license, the facts supporting the issuance of that temporary license.

(h) The names, residential addresses, and telephone numbers of 2 individuals who are references for the applicant. Information received under this subdivision is confidential, is not subject to disclosure under the freedom of information act, 1976 PA 442, MCL 15.231 to 15.246, and shall not be disclosed to any person except for purposes of this act or for law enforcement purposes.

(i) A passport-quality photograph of the applicant provided by the applicant at the time of application.

(j) A certificate stating that the applicant has completed the training course prescribed by this act.

(2) The application form shall contain a conspicuous warning that the application is executed under oath and that intentionally making a material false statement on the application is a felony punishable by imprisonment for not more than 4 years or a fine of not more than $2,500.00, or both.

(3) An individual who intentionally makes a material false statement on an application under subsection (1) is guilty of a felony punishable by imprisonment for not more than 4 years or a fine of not more than $2,500.00, or both.

(4) The concealed weapon licensing board shall retain a copy of each application for a license to carry a concealed pistol as an official record. One year after the expiration of a concealed pistol license, the county clerk may destroy the record and maintain only a name index of the record.

(5) Each applicant shall pay a nonrefundable fee of $105.00 by any method of payment accepted by that county for payments of other fees and penalties. Except for a local police agency as provided in subsection

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(9), a unit of local government, an agency of a unit of local government, or an agency or department of this state shall not charge an additional fee, assessment, or other amount in connection with a license under this section. The fee shall be payable to the county. The county treasurer shall deposit $41.00 of each fee collected under this section in the general fund of the county and credit $26.00 of that deposit to the credit of the county clerk and $15.00 of that deposit to the credit of the county sheriff and forward the balance to the state treasurer. The state treasurer shall deposit the balance of the fee in the general fund to the credit of the department of state police. The department of state police shall use the money received under this act to process the fingerprints and to reimburse the federal bureau of investigation for the costs associated with processing fingerprints submitted under this act. The balance of the money received under this act shall be credited to the department of state police.

(6) The county sheriff on behalf of the concealed weapon licensing board shall verify the requirements of subsection (7)(d), (e), (f), (h), (i), (j), (k), (*l*), and (m) through the law enforcement information network and report his or her finding to the concealed weapon licensing board. If the applicant resides in a city, village, or township that has a police department, the concealed weapon licensing board shall contact that city, village, or township police department to determine only whether that city, village, or township police department has any information relevant to the investigation of whether the applicant is eligible under this act to receive a license to carry a concealed pistol. The concealed weapon licensing board may require a person claiming active duty status with the United States armed forces under this section to provide proof of 1 or both of the following:

(a) The person's home of record.

(b) Permanent active duty assignment in this state.

(7) The concealed weapon licensing board shall issue a license to an applicant to carry a concealed pistol within the period required under this act after the applicant properly submits an application under subsection (1) and the concealed weapon licensing board determines that all of the following circumstances exist:

(a) The applicant is 21 years of age or older.

(b) The applicant is a citizen of the United States or is an alien lawfully admitted into the United States, is a legal resident of this state, and has resided in this state for not less than the 6 months immediately preceding the date of application. The concealed weapon licensing board may waive the 6-month residency requirement for a temporary license under section 5a(8) if the concealed weapon licensing board determines there is probable cause to believe the safety of the applicant or the safety of a member of the applicant's family is endangered by the applicant's inability to immediately obtain a license to carry a concealed pistol. If the applicant holds a valid concealed pistol license issued by another state at the time the applicant's residency in this state is established, the concealed weapon licensing board may waive the 6-month waiting period and the applicant may apply for a concealed pistol license at the time the applicant's residency in this state is established. The concealed weapon licensing board shall immediately issue a temporary license to that applicant. The temporary license shall be valid until the concealed weapon licensing board decides whether to grant or deny the application. For the purposes of this section, a person shall be considered a legal resident of this state if any of the following apply:

(*i*) The person has a valid, lawfully obtained Michigan driver license issued under the Michigan vehicle code, 1949 PA 300, MCL 257.1 to 257.923, or official state personal identification card issued under 1972 PA 222, MCL 28.291 to 28.300.

(*ii*) The person is lawfully registered to vote in this state.

(*iii*) The person is on active duty status with the United States armed forces and is stationed outside of this state, but the person's home of record is in this state.

(*iv*) The person is on active duty status with the United States armed forces and is permanently stationed in this state, but the person's home of record is in another state.

(c) The applicant has knowledge and has had training in the safe use and handling of a pistol by the successful completion of a pistol safety training course or class that meets the requirements of section 5j, and that is available to the general public and presented by a law enforcement agency, junior or community college, college, or public or private institution or organization or firearms training school.

(d) The applicant is not the subject of an order or disposition under any of the following:

(*i*) Section 464a of the mental health code, 1974 PA 258, MCL 330.1464a.

(*ii*) Section 5107 of the estates and protected individuals code, 1998 PA 386, MCL 700.5107.

(*iii*) Sections 2950 and 2950a of the revised judicature act of 1961, 1961 PA 236, MCL 600.2950 and 600.2950a.

(*iv*) Section 6b of chapter V of the code of criminal procedure, 1927 PA 175, MCL 765.6b, if the order has a condition imposed pursuant to section 6b(3) of chapter V of the code of criminal procedure, 1927 PA 175, MCL 765.6b.

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(*v*) Section 16b of chapter IX of the code of criminal procedure, 1927 PA 175, MCL 769.16b.

(e) The applicant is not prohibited from possessing, using, transporting, selling, purchasing, carrying, shipping, receiving, or distributing a firearm under section 224f of the Michigan penal code, 1931 PA 328, MCL 750.224f.

(f) The applicant has never been convicted of a felony in this state or elsewhere, and a felony charge against the applicant is not pending in this state or elsewhere at the time he or she applies for a license described in this section.

(g) The applicant has not been dishonorably discharged from the United States armed forces.

(h) The applicant has not been convicted of a misdemeanor violation of any of the following in the 8 years immediately preceding the date of application:

(*i*) Section 617a of the Michigan vehicle code, 1949 PA 300, MCL 257.617a (failing to stop when involved in a personal injury accident).

(*ii*) Section 625 of the Michigan vehicle code, 1949 PA 300, MCL 257.625, punishable as provided in subsection (9)(b) of that section (operating while intoxicated, second offense).

(*iii*) Section 625m of the Michigan vehicle code, 1949 PA 300, MCL 257.625m punishable under subsection (4) of that section (operating a commercial vehicle with alcohol content, second offense).

(*iv*) Section 626 of the Michigan vehicle code, 1949 PA 300, MCL 257.626 (reckless driving).

(*v*) Section 904(1) of the Michigan vehicle code, 1949 PA 300, MCL 257.904 (operating while license suspended or revoked), punishable as a second or subsequent offense.

(*vi*) Section 185 of the aeronautics code of the state of Michigan, 1945 PA 327, MCL 259.185 (operating aircraft while under the influence of intoxicating liquor or a controlled substance with prior conviction).

(*vii*) Section 29 of the weights and measures act, 1964 PA 283, MCL 290.629 (hindering or obstructing certain persons performing official weights and measures duties).

(*viii*) Section 10 of the motor fuels quality act, 1984 PA 44, MCL 290.650 (hindering, obstructing, assaulting, or committing bodily injury upon director or authorized representative).

(*ix*) Section 81134 of the natural resources and environmental protection act, 1994 PA 451, MCL 324.81134, punishable under subsection (5) or (6) of that section (operating ORV under the influence of intoxicating liquor or a controlled substance, second or subsequent offense).

(*x*) Section 82127 of the natural resources and environmental protection act, 1994 PA 451, MCL 324.82127 (operating a snowmobile under the influence of intoxicating liquor or a controlled substance), punishable as a second or subsequent offense under section 82128(1)(b) or (c) of the natural resources and environmental protection act, 1994 PA 451, MCL 324.82128.

(*xi*) Section 80176 of the natural resources and environmental protection act, 1994 PA 451, MCL 324.80176, and punishable under section 80177(1)(b) (operating vessel under the influence of intoxicating liquor or a controlled substance, second or subsequent offense).

(*xii*) Section 7403 of the public health code, 1978 PA 368, MCL 333.7403.

(*xiii*) Section 353 of the railroad code of 1993, 1993 PA 354, MCL 462.353 (operating locomotive under the influence of intoxicating liquor or a controlled substance, or while visibly impaired), punishable under subsection (4) of that section.

(*xiv*) Section 7 of 1978 PA 33, MCL 722.677 (displaying sexually explicit matter to minors).

(*xv*) Section 81 of the Michigan penal code, 1931 PA 328, MCL 750.81 (assault or domestic assault).

(*xvi*) Section 81a(1) or (2) of the Michigan penal code, 1931 PA 328, MCL 750.81a (aggravated assault or aggravated domestic assault).

(*xvii*) Section 115 of the Michigan penal code, 1931 PA 328, MCL 750.115 (breaking and entering or entering without breaking).

(*xviii*) Section 136b(6) of the Michigan penal code, 1931 PA 328, MCL 750.136b (fourth degree child abuse).

(*xix*) Section 145a of the Michigan penal code, 1931 PA 328, MCL 750.145a (accosting, enticing, or soliciting a child for immoral purposes).

(*xx*) Section 145n of the Michigan penal code, 1931 PA 328, MCL 750.145n (vulnerable adult abuse).

(*xxi*) Section 157b(3)(b) of the Michigan penal code, 1931 PA 328, MCL 750.157b (solicitation to commit a felony).

(*xxii*) Section 215 of the Michigan penal code, 1931 PA 328, MCL 750.215 (impersonating peace officer or medical examiner).

(*xxiii*) Section 223 of the Michigan penal code, 1931 PA 328, MCL 750.223 (illegal sale of a firearm or ammunition).

(*xxiv*) Section 224d of the Michigan penal code, 1931 PA 328, MCL 750.224d (illegal use or sale of a self-defense spray).

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(*xxv*) Section 226a of the Michigan penal code, 1931 PA 328, MCL 750.226a (sale or possession of a switchblade).

(*xxvi*) Section 227c of the Michigan penal code, 1931 PA 328, MCL 750.227c (improper transportation of a loaded firearm).

(*xxvii*) Section 228 of the Michigan penal code, 1931 PA 328, MCL 750.228 (failure to have a pistol inspected).

(*xxviii*) Section 229 of the Michigan penal code, 1931 PA 328, MCL 750.229 (accepting a pistol in pawn).

(*xxix*) Section 232 of the Michigan penal code, 1931 PA 328, MCL 750.232 (failure to register the purchase of a firearm or a firearm component).

(*xxx*) Section 232a of the Michigan penal code, 1931 PA 328, MCL 750.232a (improperly obtaining a pistol, making a false statement on an application to purchase a pistol, or using false identification to purchase a pistol).

(*xxxi*) Section 233 of the Michigan penal code, 1931 PA 328, MCL 750.233 (intentionally aiming a firearm without malice).

(*xxxii*) Section 234 of the Michigan penal code, 1931 PA 328, MCL 750.234 (intentionally discharging a firearm aimed without malice).

(*xxxiii*) Section 234d of the Michigan penal code, 1931 PA 328, MCL 750.234d (possessing a firearm on prohibited premises).

(*xxxiv*) Section 234e of the Michigan penal code, 1931 PA 328, MCL 750.234e (brandishing a firearm in public).

(*xxxv*) Section 234f of the Michigan penal code, 1931 PA 328, MCL 750.234f (possession of a firearm by an individual less than 18 years of age).

(*xxxvi*) Section 235 of the Michigan penal code, 1931 PA 328, MCL 750.235 (intentionally discharging a firearm aimed without malice causing injury).

(*xxxvii*) Section 235a of the Michigan penal code, 1931 PA 328, MCL 750.235a (parent of a minor who possessed a firearm in a weapon free school zone).

(*xxxviii*) Section 236 of the Michigan penal code, 1931 PA 328, MCL 750.236 (setting a spring gun or other device).

(*xxxix*) Section 237 of the Michigan penal code, 1931 PA 328, MCL 750.237 (possessing a firearm while under the influence of intoxicating liquor or a drug).

(*xl*) Section 237a of the Michigan penal code, 1931 PA 328, MCL 750.237a (weapon free school zone violation).

(*xli*) Section 335a of the Michigan penal code, 1931 PA 328, MCL 750.335a (indecent exposure).

(*xlii*) Section 411h of the Michigan penal code, 1931 PA 328, MCL 750.411h (stalking).

(*xliii*) Section 520e of the Michigan penal code, 1931 PA 328, MCL 750.520e (fourth degree criminal sexual conduct).

(*xliv*) Section 1 of 1952 PA 45, MCL 752.861 (reckless, careless, or negligent use of a firearm resulting in injury or death).

(*xlv*) Section 2 of 1952 PA 45, MCL 752.862 (careless, reckless, or negligent use of a firearm resulting in property damage).

(*xlvi*) Section 3a of 1952 PA 45, MCL 752.863a (reckless discharge of a firearm).

(*xlvii*) A violation of a law of the United States, another state, or a local unit of government of this state or another state substantially corresponding to a violation described in subparagraphs (*i*) to (*xlvi*).

(i) The applicant has not been convicted of a misdemeanor violation of any of the following in the 3 years immediately preceding the date of application unless the misdemeanor violation is listed under subdivision (h):

(*i*) Section 625 of the Michigan vehicle code, 1949 PA 300, MCL 257.625 (operating under the influence).

(*ii*) Section 625a of the Michigan vehicle code, 1949 PA 300, MCL 257.625a (refusal of commercial vehicle operator to submit to a chemical test).

(*iii*) Section 625k of the Michigan vehicle code, 1949 PA 300, MCL 257.625k (ignition interlock device reporting violation).

(*iv*) Section 625*l* of the Michigan vehicle code, 1949 PA 300, MCL 257.625*l* (circumventing an ignition interlocking device).

(*v*) Section 625m of the Michigan vehicle code, 1949 PA 300, MCL 257.625m, punishable under subsection (3) of that section (operating a commercial vehicle with alcohol content).

(*vi*) Section 185 of the aeronautics code of the state of Michigan, 1945 PA 327, MCL 259.185 (operating aircraft under the influence).

(*vii*) Section 81134 of the natural resources and environmental protection act, 1994 PA 451, MCL

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324.81134 (operating ORV under the influence).

(*viii*) Section 81135 of the natural resources and environmental protection act, 1994 PA 451, MCL 324.81135 (operating ORV while visibly impaired).

(*ix*) Section 82127 of the natural resources and environmental protection act, 1994 PA 451, MCL 324.82127 (operating a snowmobile under the influence).

(*x*) Part 74 of the public health code, 1978 PA 368, MCL 333.7401 to 333.7461 (controlled substance violation).

(*xi*) Section 353 of the railroad code of 1993, 1993 PA 354, MCL 462.353 (operating locomotive under the influence), punishable under subsection (3) of that section.

(*xii*) Section 167 of the Michigan penal code, 1931 PA 328, MCL 750.167 (disorderly person).

(*xiii*) Section 174 of the Michigan penal code, 1931 PA 328, MCL 750.174 (embezzlement).

(*xiv*) Section 218 of the Michigan penal code, 1931 PA 328, MCL 750.218 (false pretenses with intent to defraud).

(*xv*) Section 356 of the Michigan penal code, 1931 PA 328, MCL 750.356 (larceny).

(*xvi*) Section 356d of the Michigan penal code, 1931 PA 328, MCL 750.356d (second degree retail fraud).

(*xvii*) Section 359 of the Michigan penal code, 1931 PA 328, MCL 750.359 (larceny-vacant building).

(*xviii*) Section 362 of the Michigan penal code, 1931 PA 328, MCL 750.362 (larceny by conversion).

(*xix*) Section 362a of the Michigan penal code, 1931 PA 328, MCL 750.362a (larceny-defrauding lessor).

(*xx*) Section 377a of the Michigan penal code, 1931 PA 328, MCL 750.377a (malicious destruction of property).

(*xxi*) Section 380 of the Michigan penal code, 1931 PA 328, MCL 750.380 (malicious destruction of real property).

(*xxii*) Section 535 of the Michigan penal code, 1931 PA 328, MCL 750.535 (receiving stolen property).

(*xxiii*) Section 540e of the Michigan penal code, 1931 PA 328, MCL 750.540e (malicious use of telephones).

(*xxiv*) A violation of a law of the United States, another state, or a local unit of government of this state or another state substantially corresponding to a violation described in subparagraphs (*i*) to (*xxiii*).

(j) The applicant has not been found guilty but mentally ill of any crime and has not offered a plea of not guilty of, or been acquitted of, any crime by reason of insanity.

(k) The applicant has never been subject to an order of involuntary commitment in an inpatient or outpatient setting due to mental illness.

(*l*) The applicant does not have a diagnosed mental illness at the time the application is made regardless of whether he or she is receiving treatment for that illness.

(m) The applicant is not under a court order of legal incapacity in this state or elsewhere.

(n) Issuing a license to the applicant to carry a concealed pistol in this state is not detrimental to the safety of the applicant or to any other individual. A determination under this subdivision shall be based on clear and convincing evidence of repeated violations of this act, crimes, personal protection orders or injunctions, or police reports or other clear and convincing evidence of the actions of, or statements of, the applicant that bear directly on the applicant's ability to carry a concealed pistol.

(8) Upon entry of a court order or conviction of 1 of the enumerated prohibitions for using, transporting, selling, purchasing, carrying, shipping, receiving or distributing a firearm in this section the department of state police shall immediately enter the order or conviction into the law enforcement information network. For purposes of this act, information of the court order or conviction shall not be removed from the law enforcement information network, but may be moved to a separate file intended for the use of the county concealed weapon licensing boards, the courts, and other government entities as necessary and exclusively to determine eligibility to be licensed under this act.

(9) An individual, after submitting an application and paying the fee prescribed under subsection (5), shall request and have classifiable fingerprints taken by the county sheriff or a local police agency if that local police agency maintains fingerprinting capability. If the individual requests that classifiable fingerprints be taken by a local police agency, the individual shall also pay to that local police agency a fee of $15.00 by any method of payment accepted by the unit of local government for payments of other fees and penalties. The county sheriff or local police agency shall take the fingerprints within 5 business days after the request.

(10) The fingerprints shall be taken, under subsection (9), on forms and in a manner prescribed by the department of state police. The fingerprints shall be immediately forwarded to the department of state police for comparison with fingerprints already on file with the department of state police. The department of state police shall forward the fingerprints to the federal bureau of investigation. Within 10 days after receiving a report of the fingerprints from the federal bureau of investigation, the department of state police shall provide a copy to the submitting sheriff's department or local police agency as appropriate and the clerk of the

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appropriate concealed weapon licensing board. Except as provided in subsection (14), the concealed weapon licensing board shall not issue a concealed pistol license until it receives the fingerprint comparison report prescribed in this subsection. The concealed weapon licensing board may deny a license if an individual's fingerprints are not classifiable by the federal bureau of investigation.

(11) The concealed weapon licensing board shall deny a license to an applicant to carry a concealed pistol if the applicant is not qualified under subsection (7) to receive that license.

(12) A license to carry a concealed pistol that is issued based upon an application that contains a material false statement is void from the date the license is issued.

(13) Subject to subsections (10) and (14), the concealed weapon licensing board shall issue or deny issuance of a license within 45 days after the concealed weapon licensing board receives the fingerprint comparison report provided under subsection (10). If the concealed weapon licensing board denies issuance of a license to carry a concealed pistol, the concealed weapon licensing board shall within 5 business days do both of the following:

(a) Inform the applicant in writing of the reasons for the denial. Information under this subdivision shall include all of the following:

(*i*) A statement of the specific and articulable facts supporting the denial.

(*ii*) Copies of any writings, photographs, records, or other documentary evidence upon which the denial is based.

(b) Inform the applicant in writing of his or her right to appeal the denial to the circuit court as provided in section 5d.

(14) If the fingerprint comparison report is not received by the concealed weapon licensing board within 60 days after the fingerprint report is forwarded to the department of state police by the federal bureau of investigation, the concealed weapon licensing board shall issue a temporary license to carry a concealed pistol to the applicant if the applicant is otherwise qualified for a license. A temporary license issued under this section is valid for 180 days or until the concealed weapon licensing board receives the fingerprint comparison report provided under subsection (10) and issues or denies issuance of a license to carry a concealed pistol as otherwise provided under this act. Upon issuance or the denial of issuance of the license to carry a concealed pistol to an applicant who received a temporary license under this section, the applicant shall immediately surrender the temporary license to the concealed weapon licensing board that issued that temporary license.

(15) If an individual licensed under this act to carry a concealed pistol moves to a different county within this state, his or her license remains valid until it expires or is otherwise suspended or revoked under this act. A license to carry a concealed pistol that is lost, stolen, or defaced may be replaced by the issuing county clerk for a replacement fee of $10.00.

(16) If a concealed weapons licensing board suspends or revokes a license issued under this act, the license is forfeited and shall be returned to the concealed weapon licensing board forthwith. An individual who fails to return a license as required under this subsection after he or she was notified that his or her license was suspended or revoked is guilty of a misdemeanor punishable by imprisonment for not more than 93 days or a fine of not more than $500.00, or both.

(17) An applicant or an individual licensed under this act to carry a concealed pistol may be furnished a copy of his or her application under this section upon request and the payment of a reasonable fee.

(18) This section does not prohibit the concealed weapon licensing board from making public and distributing to the public at no cost lists of individuals who are certified as qualified instructors as prescribed under section 5j.

(19) As used in this section:

(a) "Convicted" means a final conviction, the payment of a fine, a plea of guilty or nolo contendere if accepted by the court, or a finding of guilt for a criminal law violation or a juvenile adjudication or disposition by the juvenile division of probate court or family division of circuit court for a violation that if committed by an adult would be a crime.

(b) "Felony" means that term as defined in section 1 of chapter I of the code of criminal procedure, 1927 PA 175, MCL 761.1, or a violation of a law of the United States or another state that is designated as a felony or that is punishable by death or by imprisonment for more than 1 year.

(c) "Mental illness" means a substantial disorder of thought or mood that significantly impairs judgment, behavior, capacity to recognize reality, or ability to cope with the ordinary demands of life, and includes, but is not limited to, clinical depression.

(d) "Misdemeanor" means a violation of a penal law of this state or violation of a local ordinance substantially corresponding to a violation of a penal law of this state that is not a felony or a violation of an order, rule, or regulation of a state agency that is punishable by imprisonment or a fine that is not a civil fine,

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or both.

(e) "Treatment" means care or any therapeutic service, including, but not limited to, the administration of a drug, and any other service for the treatment of a mental illness.

History: Add. 2000, Act 381, Eff. July 1, 2001;—Am. 2002, Act 719, Eff. July 1, 2003;—Am. 2003, Act 31, Imd. Eff. July 1, 2003;—Am. 2006, Act 350, Imd. Eff. Sept. 18, 2006;—Am. 2008, Act 406, Imd. Eff. Jan. 6, 2009.

Popular name: CCW

Popular name: Concealed Weapons

Popular name: Right to Carry

Popular name: Shall Issue

28.425c License; form; authorized conduct.

Sec. 5c. (1) A license to carry a concealed pistol shall be in a form, with the same dimensions as a Michigan operator license, prescribed by the department of state police. The license shall contain all of the following:

(a) The licensee's full name and date of birth.

(b) A photograph and a physical description of the licensee.

(c) A statement of the effective dates of the license.

(d) An indication of exceptions authorized by this act applicable to the licensee.

(e) An indication whether the license is a duplicate.

(2) Subject to section 5o and except as otherwise provided by law, a license to carry a concealed pistol issued by the county concealed weapon licensing board authorizes the licensee to do all of the following:

(a) Carry a pistol concealed on or about his or her person anywhere in this state.

(b) Carry a pistol in a vehicle, whether concealed or not concealed, anywhere in this state.

History: Add. 2000, Act 381, Eff. July 1, 2001;—Am. 2002, Act 719, Eff. July 1, 2003.

Popular name: CCW

Popular name: Concealed Weapons

Popular name: Right to Carry

Popular name: Shall Issue

28.425d Denial or failure to issue license; appeal.

Sec. 5d. (1) If the concealed weapon licensing board denies issuance of a license to carry a concealed pistol, or fails to issue that license as provided in this act, the applicant may appeal the denial or the failure to issue the license to the circuit court in the judicial circuit in which he or she resides. The appeal of the denial or failure to issue a license shall be determined by a review of the record for error, except that if the decision of the concealed weapon licensing board was based upon grounds specified in section 5b(7)(n) that portion of the appeal shall be by hearing de novo. Witnesses in the hearing shall be sworn. A jury shall not be provided in a hearing under this section.

(2) If the court determines that the denial or failure to issue a license was clearly erroneous, the court shall order the concealed weapon licensing board to issue a license as required by this act.

(3) If the court determines that the decision of the concealed weapon licensing board to deny issuance of a license to an applicant was arbitrary and capricious, the court shall order this state to pay 1/3 and the county in which the concealed weapon licensing board is located to pay 2/3 of the actual costs and actual attorney fees of the applicant in appealing the denial.

(4) If the court determines that an applicant's appeal was frivolous, the court shall order the applicant to pay the actual costs and actual attorney fees of the concealed weapon licensing board in responding to the appeal.

History: Add. 2000, Act 381, Eff. July 1, 2001;—Am. 2002, Act 719, Eff. July 1, 2003.

Popular name: CCW

Popular name: Concealed Weapons

Popular name: Right to Carry

Popular name: Shall Issue

28.425e Database; report.

Sec. 5e. (1) The department of state police shall create and maintain a computerized database of individuals who apply under this act for a license to carry a concealed pistol. The database shall contain only the following information as to each individual:

(a) The individual's name, date of birth, address, and county of residence.

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(b) If the individual is licensed to carry a concealed pistol in this state, the license number and date of expiration.

(c) Except as provided in subsection (2), if the individual was denied a license to carry a concealed pistol after the effective date of the amendatory act that added this subdivision, a statement of the reasons for that denial.

(d) A statement of all criminal charges pending and criminal convictions obtained against the individual during the license period.

(e) A statement of all determinations of responsibility for civil infractions of this act pending or obtained against the individual during the license period.

(2) If an individual who was denied a license to carry a concealed pistol after the effective date of the amendatory act that added this subsection is subsequently issued a license to carry a concealed pistol, the department of state police shall delete from the computerized database the previous reasons for the denial.

(3) The department of state police shall enter the information described in subsection (1)(a) and (b) into the law enforcement information network.

(4) Information in the database, compiled under subsections (1) through (3), is confidential, is not subject to disclosure under the freedom of information act, 1976 PA 442, MCL 15.231 to 15.246, and shall not be disclosed to any person except for purposes of this act or for law enforcement purposes. The information compiled under subsection (5) is subject to disclosure under the freedom of information act, 1976 PA 442, MCL 15.231 to 15.246.

(5) The department of state police shall file an annual report with the secretary of the senate and the clerk of the house of representatives setting forth all of the following information for each county concealed weapon licensing board:

(a) The number of concealed pistol applications received.

(b) The number of concealed pistol licenses issued.

(c) The number of concealed pistol licenses denied.

(d) Categories for denial under subdivision (c).

(e) The number of concealed pistol licenses revoked.

(f) Categories for revocation under subdivision (e).

(g) The number of applications pending at the time the report is made.

(h) The mean and median amount of time and the longest and shortest amount of time used by the federal bureau of investigation to supply the fingerprint comparison report required in section 5b(11). The department may use a statistically significant sample to comply with this subdivision.

(i) The number of charges of state civil infractions of this act or charges of criminal violations, categorized by offense, filed against individuals licensed to carry a concealed pistol that resulted in a finding of responsibility or a criminal conviction. The report shall indicate the number of crimes in each category of criminal offense that involved the brandishing or use of a pistol, the number that involved the carrying of a pistol by the license holder during the commission of the crime, and the number in which no pistol was carried by the license holder during the commission of the crime.

(j) The number of pending criminal charges, categorized by offense, against individuals licensed to carry a concealed pistol.

(k) The number of criminal cases dismissed, categorized by offense, against individuals licensed to carry a concealed pistol.

(*l*) The number of cases filed against individuals licensed to carry a concealed pistol for criminal violations that resulted in a finding of not responsible or not guilty, categorized by offense.

(m) For the purposes of subdivisions (i), (j), (k), and (*l*), the department of state police shall use the data provided under section 5m.

(n) The number of suicides by individuals licensed to carry a concealed pistol.

(o) Actual costs incurred per permit for each county.

History: Add. 2000, Act 381, Eff. July 1, 2001.

Popular name: CCW

Popular name: Concealed Weapons

Popular name: Right to Carry

Popular name: Shall Issue

28.425f Concealed pistol license; possession; disclosure to police officer; violation; penalty; seizure; forfeiture; "peace officer" defined.

Sec. 5f. (1) An individual who is licensed under this act to carry a concealed pistol shall have his or her

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license to carry that pistol in his or her possession at all times he or she is carrying a concealed pistol.

(2) An individual who is licensed under this act to carry a concealed pistol and who is carrying a concealed pistol shall show both of the following to a peace officer upon request by that peace officer:

(a) His or her license to carry a concealed pistol.

(b) His or her driver license or Michigan personal identification card.

(3) An individual licensed under this act to carry a concealed pistol and who is carrying a concealed pistol and who is stopped by a peace officer shall immediately disclose to the peace officer that he or she is carrying a pistol concealed upon his or her person or in his or her vehicle.

(4) An individual who violates subsection (1) or (2) is responsible for a state civil infraction and may be fined not more than $100.00.

(5) An individual who violates subsection (3) is responsible for a state civil infraction and may be fined as follows:

(a) For a first offense, by a fine of not more than $500.00 or by the individual's license to carry a concealed pistol being suspended for 6 months, or both.

(b) For a subsequent offense within 3 years of a prior offense, by a fine of not more than $1,000.00 and by the individual's license to carry a concealed pistol being revoked.

(6) If an individual is found responsible for a state civil infraction under this section, the court shall notify the department of state police and the concealed weapon licensing board that issued the license of that determination.

(7) A pistol carried in violation of this section is subject to immediate seizure by a peace officer. If a peace officer seizes a pistol under this subsection, the individual has 45 days in which to display his or her license or documentation to an authorized employee of the law enforcement entity that employs the peace officer. If the individual displays his or her license or documentation to an authorized employee of the law enforcement entity that employs the peace officer within the 45-day period, the authorized employee of that law enforcement entity shall return the pistol to the individual unless the individual is prohibited by law from possessing a firearm. If the individual does not display his or her license or documentation within the 45-day period, the pistol is subject to forfeiture as provided in section 5g. A pistol is not subject to immediate seizure under this subsection if both of the following circumstances exist:

(a) The individual has his or her driver license or Michigan personal identification card in his or her possession when the violation occurs.

(b) The peace officer verifies through the law enforcement information network that the individual is licensed under this act to carry a concealed pistol.

(8) As used in this section, "peace officer" includes a motor carrier officer appointed under section 6d of 1935 PA 59, MCL 28.6d, and security personnel employed by the state under section 6c of 1935 PA 59, MCL 28.6c.

History: Add. 2000, Act 381, Eff. July 1, 2001;—Am. 2002, Act 719, Eff. July 1, 2003;—Am. 2008, Act 194, Eff. Jan. 7, 2009.

Popular name: CCW

Popular name: Concealed Weapons

Popular name: Right to Carry

Popular name: Shall Issue

28.425g Pistol subject to seizure and forfeiture.

Sec. 5g. A pistol carried in violation of this act is subject to seizure and forfeiture in the same manner that property is subject to seizure and forfeiture under sections 4701 to 4709 of the revised judicature act of 1961, 1961 PA 236, MCL 600.4701 to 600.4709. This section does not apply if the violation is a state civil infraction under section 5f unless the individual fails to present his or her license within the 45-day period described in that section.

History: Add. 2000, Act 381, Eff. July 1, 2001.

Popular name: CCW

Popular name: Concealed Weapons

Popular name: Right to Carry

Popular name: Shall Issue

28.425h Expiration of license issued under former law; renewal license.

Sec. 5h. (1) An individual who is licensed to carry a concealed pistol on the effective date of the amendatory act that added this section may carry a concealed pistol under that license until the license expires or the individual's authority to carry a concealed pistol under that license is otherwise terminated, whichever

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occurs first.

(2) An individual who is licensed under this act to carry a concealed pistol on the effective date of the amendatory act that added this section may apply for a renewal license upon the expiration of that license as provided in section 5*l*.

History: Add. 2000, Act 381, Eff. July 1, 2001.

Popular name: CCW

Popular name: Concealed Weapons

Popular name: Right to Carry

Popular name: Shall Issue

28.425i Instruction or training; liability.

Sec. 5i. (1) A person or entity that provides instruction or training to another person under section 5b is immune from civil liability for damages to any person or property caused by the person who was trained.

(2) This section does not apply if the person or entity providing the instruction or training was grossly negligent.

(3) This section is in addition to and not in lieu of immunity otherwise provided by law.

History: Add. 2000, Act 381, Eff. July 1, 2001.

Popular name: CCW

Popular name: Concealed Weapons

Popular name: Right to Carry

Popular name: Shall Issue

28.425j Pistol training or safety program; conditions.

Sec. 5j. (1) A pistol training or safety program described in section 5b(7)(c) meets the requirements for knowledge or training in the safe use and handling of a pistol only if the program consists of not less than 8 hours of instruction and all of the following conditions are met:

(a) The program is certified by this state or a national or state firearms training organization and provides 5 hours of instruction in, but is not limited to providing instruction in, all of the following:

(*i*) The safe storage, use, and handling of a pistol including, but not limited to, safe storage, use, and handling to protect child safety.

(*ii*) Ammunition knowledge, and the fundamentals of pistol shooting.

(*iii*) Pistol shooting positions.

(*iv*) Firearms and the law, including civil liability issues and the use of deadly force. This portion shall be taught by an attorney or an individual trained in the use of deadly force.

(*v*) Avoiding criminal attack and controlling a violent confrontation.

(*vi*) All laws that apply to carrying a concealed pistol in this state.

(b) The program provides at least 3 hours of instruction on a firing range and requires firing at least 30 rounds of ammunition.

(c) The program provides a certificate of completion that states the program complies with the requirements of this section and that the individual successfully completed the course, and that contains the printed name and signature of the course instructor. Not later than October 1, 2004, the certificate of completion shall contain the statement, “This course complies with section 5j of 1927 PA 372.”

(d) The instructor of the course is certified by this state or a national organization to teach the 8-hour pistol safety training course described in this section.

(2) A person shall not do either of the following:

(a) Grant a certificate of completion described under subsection (1)(c) to an individual knowing the individual did not satisfactorily complete the course.

(b) Present a certificate of completion described under subsection (1)(c) to a concealed weapon licensing board knowing that the individual did not satisfactorily complete the course.

(3) A person who violates subsection (2) is guilty of a felony punishable by imprisonment for not more than 4 years or a fine of not more than $2,500.00, or both.

(4) A concealed weapons licensing board shall not require that a specific form, color, wording, or other content appear on a certificate of completion, except as provided in subsection (5), and shall accept as valid a certificate of completion issued prior to the effective date of the amendatory act that added this subsection that contains an inaccurate reference or no reference to this section but otherwise complies with this section.

(5) Beginning October 1, 2004, a concealed weapons licensing board shall require that a certificate of completion contain the statement, “This course complies with section 5j of 1927 PA 372.”.

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History: Add. 2000, Act 381, Eff. July 1, 2001;—Am. 2002, Act 719, Eff. July 1, 2003;—Am. 2004, Act 254, Imd. Eff. July 23, 2004.

Popular name: CCW

Popular name: Concealed Weapons

Popular name: Right to Carry

Popular name: Shall Issue

28.425k Acceptance of license as implied consent to submit to chemical analysis of breath, blood, or urine.

Sec. 5k. (1) Acceptance of a license issued under this act to carry a concealed pistol constitutes implied consent to submit to a chemical analysis under this section. This section also applies to individuals listed in section 12a(a) to (f).

(2) An individual shall not carry a concealed pistol while he or she is under the influence of alcoholic liquor or a controlled substance or while having a bodily alcohol content prohibited under this section. A person who violates this section is responsible for a state civil infraction or guilty of a crime as follows:

(a) If the person was under the influence of alcoholic liquor or a controlled substance or a combination of alcoholic liquor and a controlled substance, or had a bodily alcohol content of .10 or more grams per 100 milliliters of blood, per 210 liters of breath, or per 67 milliliters of urine, the individual is guilty of a misdemeanor punishable by imprisonment for not more than 93 days or $100.00, or both. The court shall order the concealed weapon licensing board that issued the individual a license to carry a concealed pistol to permanently revoke the license. The concealed weapon licensing board shall permanently revoke the license as ordered by the court.

(b) If the person had a bodily alcohol content of .08 or more but less than .10 grams per 100 milliliters of blood, per 210 liters of breath, or per 67 milliliters of urine, the individual is guilty of a misdemeanor punishable by imprisonment for not more than 93 days or $100.00, or both. The court may order the concealed weapon licensing board that issued the individual a license to carry a concealed pistol to revoke the license for not more than 3 years. The concealed weapon licensing board shall revoke the license as ordered by the court.

(c) If the person had a bodily alcohol content of .02 or more but less than .08 grams per 100 milliliters of blood, per 210 liters of breath, or per 67 milliliters of urine, the individual is responsible for a state civil infraction and may be fined not more than $100.00. The court may order the concealed weapon licensing board that issued the individual the license to revoke the license for 1 year. The concealed weapon licensing board shall revoke the license as ordered by the court. The court shall notify the concealed weapon licensing board that issued the individual a license to carry a concealed pistol if an individual is found responsible for a subsequent violation of this subdivision.

(3) This section does not prohibit an individual licensed under this act to carry a concealed pistol who has any bodily alcohol content from transporting that pistol in the locked trunk of his or her motor vehicle or another motor vehicle in which he or she is a passenger or, if the vehicle does not have a trunk, from transporting that pistol unloaded in a locked compartment or container that is separated from the ammunition for that pistol or on a vessel if the pistol is transported unloaded in a locked compartment or container that is separated from the ammunition for that pistol.

(4) A peace officer who has probable cause to believe an individual is carrying a concealed pistol in violation of this section may require the individual to submit to a chemical analysis of his or her breath, blood, or urine.

(5) Before an individual is required to submit to a chemical analysis under subsection (4), the peace officer shall inform the individual of all of the following:

(a) The individual may refuse to submit to the chemical analysis, but if he or she chooses to do so, all of the following apply:

(*i*) The officer may obtain a court order requiring the individual to submit to a chemical analysis.

(*ii*) The refusal may result in his or her license to carry a concealed pistol being suspended or revoked.

(b) If the individual submits to the chemical analysis, he or she may obtain a chemical analysis described in subsection (4) from a person of his or her own choosing.

(6) The collection and testing of breath, blood, and urine specimens under this section shall be conducted in the same manner that breath, blood, and urine specimens are collected and tested for alcohol- and controlled-substance-related driving violations under the Michigan vehicle code, 1949 PA 300, MCL 257.1 to 257.923.

(7) If a person refuses to take a chemical test authorized under this section, the peace officer shall promptly report the refusal in writing to the concealed weapon licensing board that issued the license to the individual

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to carry a concealed pistol.

(8) If a person takes a chemical test authorized under this section and the test results indicate that the individual had any bodily alcohol content while carrying a concealed pistol, the peace officer shall promptly report the violation in writing to the concealed weapon licensing board that issued the license to the individual to carry a concealed pistol.

(9) As used in this section:

(a) "Alcoholic liquor" means that term as defined in section 105 of the Michigan liquor control code of 1998, 1998 PA 58, MCL 436.1105.

(b) "Controlled substance" means that term as defined in section 7104 of the public health code, 1978 PA 368, MCL 333.7401.

History: Add. 2000, Act 381, Eff. July 1, 2001.

Popular name: CCW

Popular name: Concealed Weapons

Popular name: Right to Carry

Popular name: Shall Issue

28.425*l* License; validity; duration; renewal; waiver of educational requirements; fingerprints.

Sec. 5*l*. (1) A license to carry a concealed pistol issued on or after July 1, 2003 but before July 1, 2006 is valid for 5 years.

(2) A license to carry a concealed pistol issued or renewed on or after July 1, 2006 is valid until the applicant's date of birth that falls not less than 4 years or more than 5 years after the license is issued or renewed, as applicable. Except as provided in subsections (7) and (8), a renewal of a license under section 5b shall, except as provided in this section, be issued in the same manner as an original license issued under section 5b.

(3) The concealed weapon licensing board shall issue or deny issuance of a renewal license within 60 days after the application for renewal is properly submitted. The county clerk shall issue the applicant a receipt for his or her renewal application at the time the application is submitted. The receipt shall contain all of the following:

(a) The name of the applicant.

(b) The date and time the receipt is issued.

(c) The amount paid.

(d) A statement that the receipt is for a license renewal.

(e) A statement of whether the applicant qualifies for an extension under subsection (4).

(f) The name of the county in which the receipt is issued.

(g) An impression of the county seal.

(4) If the concealed weapon licensing board fails to deny or issue a renewal license to the person within 60 days as required under subsection (3), the expiration date of the current license is extended by 180 days or until the renewal license is issued, whichever occurs first. This subsection does not apply unless the person pays the renewal fee at the time the renewal application is submitted and the person has submitted a receipt from a police agency that confirms that a background check has been requested by the applicant.

(5) A person carrying a concealed pistol after the expiration date of his or her license pursuant to an extension under subsection (4) shall keep the receipt issued by the county clerk under subsection (3) and his or her expired license in his or her possession at all times that he or she is carrying the pistol. For the purposes of this act, the receipt is considered to be part of the license to carry a concealed pistol until a renewal license is issued or denied. Failing to have the receipt and expired license in possession while carrying a concealed pistol or failing to display the receipt to a peace officer upon request is a violation of this act.

(6) The educational requirements under section 5b(7)(c) are waived for an applicant who is a retired police officer or retired law enforcement officer.

(7) The educational requirements under section 5b(7)(c) for an applicant who is applying for a renewal of a license under this act are waived except that the applicant shall certify that he or she has completed at least 3 hours' review of the training described under section 5b(7)(c) and has had at least 1 hour of firing range time in the 6 months immediately preceding the subsequent application.

(8) Beginning January 1, 2007, an applicant who is applying for a renewal of a license issued under section 5b is not required to have fingerprints taken again under section 5b(9) if all of the following conditions have been met:

(a) There has been established a system for the department of state police to save and maintain in its automated fingerprint identification system (AFIS) database all fingerprints that are submitted to the

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department of state police under section 5b.

(b) The applicant's fingerprints have been submitted to and maintained by the department of state police as described in subdivision (a) for ongoing comparison with the automated fingerprint identification system (AFIS) database.

History: Add. 2000, Act 381, Eff. July 1, 2001;—Am. 2002, Act 719, Eff. July 1, 2003;—Am. 2005, Act 262, Eff. July 1, 2006;—Am. 2006, Act 92, Eff. July 1, 2006;—Am. 2006, Act 184, Imd. Eff. June 19, 2006;—Am. 2006, Act 456, Imd. Eff. Dec. 20, 2006;—Am. 2008, Act 406, Imd. Eff. Jan. 6, 2009.

Popular name: CCW

Popular name: Concealed Weapons

Popular name: Right to Carry

Popular name: Shall Issue

28.425m Notification of criminal charge; report.

Sec. 5m. A prosecuting attorney shall promptly notify the county concealed weapon licensing board that issued the license of a criminal charge against a license holder for a felony or specified criminal offense as defined in this act. The prosecuting attorney shall promptly notify the county concealed weapon licensing board that issued the license of the disposition of the criminal charge. If a license holder is convicted of a crime, the prosecuting attorney's notification shall indicate if the crime involved the brandishing or use of a pistol, if a pistol was carried by the license holder during the commission of the crime, or if no pistol was carried by the license holder during the commission of the crime. The state police shall provide a form for reporting purposes. Each year by a date determined by the director of the department of state police, the chairperson of the county concealed weapon licensing board shall compile and provide a report to the department of state police in a format determined by the director of the department of state police containing the information provided to the concealed weapon licensing board under this section, section 5f(6), or section 5k(7) or (8).

History: Add. 2000, Act 381, Eff. July 1, 2001.

Popular name: CCW

Popular name: Concealed Weapons

Popular name: Right to Carry

Popular name: Shall Issue

28.425n Other license or permit; limitations by employer prohibited.

Sec. 5n. (1) This state or a local unit of government of this state shall not prohibit an individual from doing either of the following as a condition for receiving or maintaining any other license or permit authorized by law:

(a) Applying for or receiving a license to carry a concealed pistol under this act.

(b) Carrying a concealed pistol in compliance with a license issued under this act.

(2) Except as provided in subsection (3), an employer shall not prohibit an employee from doing either of the following:

(a) Applying for or receiving a license to carry a concealed pistol under this act.

(b) Carrying a concealed pistol in compliance with a license issued under this act. This subdivision does not prohibit an employer from prohibiting an employee from carrying a concealed pistol in the course of his or her employment with that employer.

(3) A police agency may prohibit an employee of that police agency from carrying a concealed pistol if carrying a concealed pistol would result in increased insurance premiums or a loss or reduction of insurance coverage for that employer.

History: Add. 2000, Act 381, Eff. July 1, 2001.

Popular name: CCW

Popular name: Concealed Weapons

Popular name: Right to Carry

Popular name: Shall Issue

****** 28.425o THIS SECTION IS AMENDED EFFECTIVE APRIL 6, 2009: See 28.425o.amended ******

28.425o Premises on which carrying concealed weapon prohibited; “premises” defined; exceptions to subsection (1); violation; penalties.

Sec. 5o. (1) Subject to subsection (4), an individual licensed under this act to carry a concealed pistol, or

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who is exempt from licensure under section 12a(1)(f), shall not carry a concealed pistol on the premises of any of the following:

(a) A school or school property except that a parent or legal guardian of a student of the school is not precluded from carrying a concealed pistol while in a vehicle on school property, if he or she is dropping the student off at the school or picking up the child from the school. As used in this section, "school" and "school property" mean those terms as defined in section 237a of the Michigan penal code, 1931 PA 328, MCL 750.237a.

(b) A public or private child care center or day care center, public or private child caring institution, or public or private child placing agency.

(c) A sports arena or stadium.

(d) A bar or tavern licensed under the Michigan liquor control code of 1998, 1998 PA 58, MCL 436.1101 to 436.2303, where the primary source of income of the business is the sale of alcoholic liquor by the glass and consumed on the premises. This subdivision does not apply to an owner or employee of the business. The Michigan liquor control commission shall develop and make available to holders of licenses under the Michigan liquor control code of 1998, 1998 PA 58, MCL 436.1101 to 436.2303, an appropriate sign stating that "This establishment prohibits patrons from carrying concealed weapons". The owner or operator of an establishment licensed under the Michigan liquor control code of 1998, 1998 PA 58, MCL 436.1101 to 436.2303, may, but is not required to, post the sign developed under this subdivision. A record made available by an establishment licensed under the Michigan liquor control code of 1998, 1998 PA 58, MCL 436.1101 to 436.2303, necessary to enforce this subdivision is exempt from disclosure under the freedom of information act, 1976 PA 442, MCL 15.231 to 15.246.

(e) Any property or facility owned or operated by a church, synagogue, mosque, temple, or other place of worship, unless the presiding official or officials of the church, synagogue, mosque, temple, or other place of worship permit the carrying of concealed pistol on that property or facility.

(f) An entertainment facility with a seating capacity of 2,500 or more individuals that the individual knows or should know has a seating capacity of 2,500 or more individuals or that has a sign above each public entrance stating in letters not less than 1-inch high a seating capacity of 2,500 or more individuals.

(g) A hospital.

(h) A dormitory or classroom of a community college, college, or university.

(2) An individual licensed under this act to carry a concealed pistol, or who is exempt from licensure under section 12a(1)(f), shall not carry a concealed pistol in violation of R 432.1212 or a successor rule of the Michigan administrative code promulgated under the Michigan gaming control and revenue act, 1996 IL 1, MCL 432.201 to 432.226.

(3) As used in subsection (1), "premises" does not include parking areas of the places identified under subsection (1).

(4) Subsection (1) does not apply to any of the following:

(a) An individual licensed under this act who is a retired police officer or retired law enforcement officer. The concealed weapon licensing board may require a letter from the law enforcement agency stating that the retired police officer or law enforcement officer retired in good standing.

(b) An individual who is licensed under this act and who is employed or contracted by an entity described under subsection (1) 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.

(c) An individual who is licensed as a private investigator or private detective under the professional investigator licensure act, 1965 PA 285, MCL 338.821 to 338.851.

(d) An individual who is licensed under this act and who is a corrections officer of a county sheriff's department.

(e) An individual who is licensed under this act and who is a motor carrier officer or capitol security officer of the department of state police.

(f) An individual who is licensed under this act and who is a member of a sheriff's posse.

(g) An individual who is licensed under this act and who is an auxiliary officer or reserve officer of a police or sheriff's department.

(h) An individual who is licensed under this act and who is a parole or probation officer of the department of corrections.

(5) An individual who violates this section is responsible for a state civil infraction or guilty of a crime as follows:

(a) Except as provided in subdivisions (b) and (c), the individual is responsible for a state civil infraction and may be fined not more than $500.00. The court shall order the individual's license to carry a concealed pistol suspended for 6 months.

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(b) For a second violation, the individual is guilty of a misdemeanor punishable by a fine of not more than $1,000.00. The court shall order the individual's license to carry a concealed pistol revoked.

(c) For a third or subsequent violation, the individual is guilty of a felony punishable by imprisonment for not more than 4 years or a fine of not more than $5,000.00, or both. The court shall order the individual's license to carry a concealed pistol revoked.

History: Add. 2000, Act 381, Eff. July 1, 2001;—Am. 2002, Act 719, Eff. July 1, 2003;—Am. 2008, Act 194, Eff. Jan. 7, 2009;—Am. 2008, Act 406, Imd. Eff. Jan. 6, 2009.

Popular name: CCW

Popular name: Concealed Weapons

Popular name: Right to Carry

Popular name: Shall Issue

****** 28.425o.amended THIS AMENDED SECTION IS EFFECTIVE APRIL 6, 2009 ******

28.425o.amended Premises on which carrying concealed weapon prohibited; "premises" defined; exceptions to subsection (1); violation; penalties.

Sec. 5o. (1) Subject to subsection (4), an individual licensed under this act to carry a concealed pistol, or who is exempt from licensure under section 12a(1)(f), shall not carry a concealed pistol on the premises of any of the following:

(a) A school or school property except that a parent or legal guardian of a student of the school is not precluded from carrying a concealed pistol while in a vehicle on school property, if he or she is dropping the student off at the school or picking up the child from the school. As used in this section, "school" and "school property" mean those terms as defined in section 237a of the Michigan penal code, 1931 PA 328, MCL 750.237a.

(b) A public or private child care center or day care center, public or private child caring institution, or public or private child placing agency.

(c) A sports arena or stadium.

(d) A bar or tavern licensed under the Michigan liquor control code of 1998, 1998 PA 58, MCL 436.1101 to 436.2303, where the primary source of income of the business is the sale of alcoholic liquor by the glass and consumed on the premises. This subdivision does not apply to an owner or employee of the business. The Michigan liquor control commission shall develop and make available to holders of licenses under the Michigan liquor control code of 1998, 1998 PA 58, MCL 436.1101 to 436.2303, an appropriate sign stating that "This establishment prohibits patrons from carrying concealed weapons". The owner or operator of an establishment licensed under the Michigan liquor control code of 1998, 1998 PA 58, MCL 436.1101 to 436.2303, may, but is not required to, post the sign developed under this subdivision. A record made available by an establishment licensed under the Michigan liquor control code of 1998, 1998 PA 58, MCL 436.1101 to 436.2303, necessary to enforce this subdivision is exempt from disclosure under the freedom of information act, 1976 PA 442, MCL 15.231 to 15.246.

(e) Any property or facility owned or operated by a church, synagogue, mosque, temple, or other place of worship, unless the presiding official or officials of the church, synagogue, mosque, temple, or other place of worship permit the carrying of concealed pistol on that property or facility.

(f) An entertainment facility with a seating capacity of 2,500 or more individuals that the individual knows or should know has a seating capacity of 2,500 or more individuals or that has a sign above each public entrance stating in letters not less than 1-inch high a seating capacity of 2,500 or more individuals.

(g) A hospital.

(h) A dormitory or classroom of a community college, college, or university.

(2) An individual licensed under this act to carry a concealed pistol, or who is exempt from licensure under section 12a(1)(f), shall not carry a concealed pistol in violation of R 432.1212 or a successor rule of the Michigan administrative code promulgated under the Michigan gaming control and revenue act, 1996 IL 1, MCL 432.201 to 432.226.

(3) As used in subsection (1), "premises" does not include parking areas of the places identified under subsection (1).

(4) Subsection (1) does not apply to any of the following:

(a) An individual licensed under this act who is a retired police officer or retired law enforcement officer. The concealed weapon licensing board may require a letter from the law enforcement agency stating that the retired police officer or law enforcement officer retired in good standing.

(b) An individual who is licensed under this act and who is employed or contracted by an entity described under subsection (1) to provide security services and is required by his or her employer or the terms of a

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contract to carry a concealed firearm on the premises of the employing or contracting entity.

(c) An individual who is licensed as a private investigator or private detective under the professional investigator licensure act, 1965 PA 285, MCL 338.821 to 338.851.

(d) An individual who is licensed under this act and who is a corrections officer of a county sheriff's department.

(e) An individual who is licensed under this act and who is a motor carrier officer or capitol security officer of the department of state police.

(f) An individual who is licensed under this act and who is a member of a sheriff's posse.

(g) An individual who is licensed under this act and who is an auxiliary officer or reserve officer of a police or sheriff's department.

(h) An individual who is licensed under this act and who is a parole or probation officer of the department of corrections.

(i) A state court judge or state court retired judge who is licensed under this act. The concealed weapon licensing board may require a state court retired judge to obtain and carry a letter from the judicial tenure commission stating that the state court retired judge is in good standing as authorized under section 30 of article VI of the state constitution of 1963, and rules promulgated under that section, in order to qualify under this subdivision.

(5) An individual who violates this section is responsible for a state civil infraction or guilty of a crime as follows:

(a) Except as provided in subdivisions (b) and (c), the individual is responsible for a state civil infraction and may be fined not more than $500.00. The court shall order the individual's license to carry a concealed pistol suspended for 6 months.

(b) For a second violation, the individual is guilty of a misdemeanor punishable by a fine of not more than $1,000.00. The court shall order the individual's license to carry a concealed pistol revoked.

(c) For a third or subsequent violation, the individual is guilty of a felony punishable by imprisonment for not more than 4 years or a fine of not more than $5,000.00, or both. The court shall order the individual's license to carry a concealed pistol revoked.

History: Add. 2000, Act 381, Eff. July 1, 2001;—Am. 2002, Act 719, Eff. July 1, 2003;—Am. 2008, Act 194, Eff. Jan. 7, 2009;—Am. 2008, Act 406, Imd. Eff. Jan. 6, 2009;—Am. 2008, Act 407, Eff. Apr. 6, 2009.

Popular name: CCW

Popular name: Concealed Weapons

Popular name: Right to Carry

Popular name: Shall Issue

28.425v Concealed weapon enforcement fund; creation; disposition of funds; lapse; expenditures.

Sec. 5v. (1) The concealed weapon enforcement fund is created in the state treasury.

(2) The state treasurer may receive money or other assets from any source for deposit into the fund. The state treasurer shall direct the investment of the fund. The state treasurer shall credit to the fund interest and earnings from fund investments.

(3) Money in the fund at the close of the fiscal year shall remain in the fund and shall not lapse to the general fund.

(4) The department of state police shall expend money from the fund only to provide training to law enforcement personnel regarding the rights and responsibilities of individuals who are licensed to carry concealed pistols in this state and proper enforcement techniques in light of those rights and responsibilities.

History: Add. 2000, Act 381, Eff. July 1, 2001.

Popular name: CCW

Popular name: Concealed Weapons

Popular name: Right to Carry

Popular name: Shall Issue

28.425w Appropriation; amount; purpose; total state spending; appropriations and expenditures subject to MCL 18.1101 to 18.1594.

Sec. 5w. (1) One million dollars is appropriated from the general fund to the department of state police for the fiscal year ending September 30, 2001 for all of the following:

(a) Distributing trigger locks or other safety devices for firearms to the public free of charge.

(b) Providing concealed pistol application kits to county sheriffs, local police agencies, and county clerks

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for distribution under section 5.

(c) The fingerprint analysis and comparison reports required under section 5b(11).

(d) Photographs required under section 5c.

(e) Creating and maintaining the database required under section 5e.

(f) Creating and maintaining a database of firearms that have been reported lost or stolen. Information in the database shall be made available to law enforcement through the law enforcement information network.

(g) Grants to county concealed weapon licensing boards for expenditure only to implement this act.

(h) Training under section 5v(4).

(i) Creating and distributing the reporting forms required under section 5m.

(j) A public safety campaign regarding the requirements of this act.

(2) Pursuant to section 30 of article IX of the state constitution of 1963, total state spending under subsection (1) for the fiscal year ending September 30, 2001 is $1,000,000.00.

(3) The appropriations made and the expenditures authorized under this section and the departments, agencies, commissions, boards, offices, and programs for which an appropriation is made under this section are subject to the management and budget act, 1984 PA 431, MCL 18.1101 to 18.1594.

History: Add. 2000, Act 381, Eff. July 1, 2001.

Popular name: CCW

Popular name: Concealed Weapons

Popular name: Right to Carry

Popular name: Shall Issue

28.426 Issuance of license; conditions.

Sec. 6. A license shall not be issued to an applicant under section 2 or 5b unless both of the following apply:

(a) The issuing agency has determined through the federal national instant criminal background check system (NICS) that the applicant is not prohibited under federal law from possessing or transporting a firearm.

(b) If the applicant is not a United States citizen, the issuing agency has verified through the United States immigration and customs enforcement databases that the applicant is not an illegal alien or a nonimmigrant alien.

History: Add. 2005, Act 242, Imd. Eff. Nov. 22, 2005.

Compiler's note: Former MCL 28.426, which pertained to concealed weapon licensing board, was repealed by Act 381 of 200, Eff. July 1, 2001.

Popular name: CCW

Popular name: Concealed Weapons

Popular name: Right to Carry

Popular name: Shall Issue

28.426a Licenses to equip premises or vehicles with gas ejecting devices; rules; license to manufacture or sell gas ejecting or emitting weapon, cartridge, or device; “gas ejecting device” defined; license not required for self-defense spray device.

Sec. 6a. (1) A concealed weapons licensing board may issue to any bank, trust company, armored car company, railway company, express company, or other company, institution, copartnership, or individual having in its, their, or the individual's possession large sums of money or other valuables, a license authorizing the licensee to equip the premises or vehicles under its, their, or the individual's control with gas ejecting devices to be used solely for the purpose of protecting those premises or vehicles and the persons or property in the premises or vehicles from criminal assaults.

(2) The director of the department of state police shall promulgate rules to govern the issuing of the license and the making of an application for the license. The rules shall be promulgated pursuant to the administrative procedures act of 1969, Act No. 306 of the Public Acts of 1969, as amended, being sections 24.201 to 24.328 of the Michigan Compiled Laws. The concealed weapons licensing board may issue to any company, copartnership, or individual under the limitations and pursuant to the rules promulgated by the director of the department of state police a license authorizing the corporation, copartnership, or individual to manufacture or sell, or both, a gas ejecting or emitting weapon, cartridge, or device to any person authorized by law to possess the weapon, cartridge, or device.

(3) For purposes of this section, “gas ejecting device” means a device designed for the purpose of rendering a person either temporarily or permanently disabled by the ejection, release, or emission of a gas or other substance.

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(4) A license shall not be required under this section for the sale, purchase, or possession of a self-defense spray device, as defined in section 224d of the Michigan penal code, Act No. 328 of the Public Acts of 1931, being section 750.224d of the Michigan Compiled Laws.

History: Add. 1929, Act 206, Imd. Eff. May 20, 1929;—CL 1929, 16755;—CL 1948, 28.426a;—Am. 1980, Act 345, Eff. Mar. 31, 1981;—Am. 1991, Act 34, Imd. Eff. June 10, 1991.

Popular name: CCW

Popular name: Concealed Weapons

Popular name: Right to Carry

Popular name: Shall Issue

Administrative rules: R 28.91 and R 28.92 of the Michigan Administrative Code.

28.427 Concealed weapons licenses; expiration.

Sec. 7. All licenses heretofore issued in this state permitting a person to carry a pistol concealed upon his person shall expire at midnight, December 31, 1927.

History: 1927, Act 372, Eff. Sept. 5, 1927;—CL 1929, 16756;—CL 1948, 28.427.

Popular name: CCW

Popular name: Concealed Weapons

Popular name: Right to Carry

Popular name: Shall Issue

28.428 Revocation of licenses; grounds; hearing; suspension; order; notice.

Sec. 8. (1) The concealed weapon licensing board that issued a license to an individual to carry a concealed pistol may revoke that license if the board determines that the individual committed any violation of this act other than a violation of section 5f(4). If the board determines that the individual has been found responsible for 3 or more state civil infraction violations of this act during the license period, the board shall conduct a hearing and may suspend the individual's license for not more than 1 year.

(2) Except as provided in subsections (3), (4), and (5), a license shall not be revoked under this section except upon written complaint and an opportunity for a hearing before the board. The board shall give the individual at least 10 days' notice of a hearing under this section. The notice shall be by personal service or by certified mail delivered to the individual's last known address.

(3) If the concealed weapon licensing board is notified by a law enforcement agency or prosecuting official that an individual licensed to carry a concealed pistol is charged with a felony or misdemeanor as defined in this act, the concealed weapon licensing board shall immediately suspend the individual's license until there is a final disposition of the charge for that offense and send notice of that suspension to the individual's last known address as indicated in the records of the concealed weapon licensing board. The notice shall inform the individual that he or she is entitled to a prompt hearing on the suspension, and the concealed weapon licensing board shall conduct a prompt hearing if requested in writing by the individual. The requirements of subsection (2) do not apply to this subsection.

(4) The concealed weapon licensing board that issued a license to an individual to carry a concealed pistol shall revoke that license if the board determines that the individual is not eligible under this act to receive a license to carry a concealed pistol. The concealed weapon licensing board shall immediately send notice of the fact of and the reason for the revocation under this subsection by first-class mail to the individual's last known address as indicated on the records of the concealed weapon licensing board. The requirements of subsection (2) do not apply to this subsection.

(5) If the concealed weapon licensing board determines by clear and convincing evidence based on specific articulable facts that the applicant poses a danger to the applicant or to any other person, the concealed weapon licensing board shall immediately suspend the individual's license pending a revocation hearing under this section. The concealed weapon licensing board shall send notice of the suspension to the individual's last known address as indicated in the records of the concealed weapon licensing board. The notice shall inform the individual that he or she is entitled to a prompt hearing on the suspension, and the concealed weapon licensing board shall conduct a prompt hearing if requested in writing by the individual. The requirements of subsection (2) do not apply to this subsection.

(6) If the concealed weapon licensing board orders a license suspended or revoked under this section or amends a suspension or revocation order, the concealed weapon licensing board shall immediately notify a law enforcement agency having jurisdiction in the county in which the concealed weapon licensing board is located to enter the order or amended order into the law enforcement information network. A law enforcement agency that receives notice of an order or amended order under this subsection from a concealed weapon

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licensing board shall immediately enter the order or amended order into the law enforcement information network as requested by that concealed weapon licensing board.

(7) A suspension or revocation order or amended order issued under this section is immediately effective. However, an individual is not criminally liable for violating the order or amended order unless he or she has received notice of the order or amended order.

(8) If an individual is carrying a pistol in violation of a suspension or revocation order or amended order issued under this section but has not previously received notice of the order or amended order, the individual shall be informed of the order or amended order and be given an opportunity to properly store the pistol or otherwise comply with the order or amended order before an arrest is made for carrying the pistol in violation of this act.

(9) If a law enforcement agency or officer notifies an individual of a suspension or revocation order or amended order issued under this section who has not previously received notice of the order or amended order, the law enforcement agency or officer shall enter a statement into the law enforcement information network that the individual has received notice of the order or amended order under this section.

(10) The clerk of the concealed weapon licensing board is authorized to administer an oath to any individual testifying before the board at a hearing under this section.

History: 1927, Act 372, Eff. Sept. 5, 1927;—CL 1929, 16757;—CL 1948, 28.428;—Am. 2000, Act 381, Eff. July 1, 2001;—Am. 2008, Act 406, Imd. Eff. Jan. 6, 2009.

Popular name: CCW

Popular name: Concealed Weapons

Popular name: Right to Carry

Popular name: Shall Issue

28.429 Repealed. 2008, Act 195, Eff. Jan. 7, 2009.

Compiler's note: The repealed section pertained to safety inspection requirements for pistols.

Popular name: CCW

Popular name: Concealed Weapons

Popular name: Right to Carry

Popular name: Shall Issue

28.429a Duties of state police; questionnaire; pamphlet.

Sec. 9a. The department of state police shall do all of the following:

(a) Approve a pamphlet on basic pistol safety for distribution to entities authorized to issue licenses under section 2.

(b) Approve basic pistol safety questionnaires for distribution to entities authorized to issue licenses under section 2. The department of state police shall approve a questionnaire under this subdivision only if both of the following circumstances exist:

(*i*) The questionnaire only addresses material covered in the pamphlet approved under subdivision (a).

(*ii*) The questionnaire reasonably examines the knowledge of pistol safety of individuals who are required to answer questionnaires.

History: Add. 1990, Act 320, Eff. Mar. 28, 1991;—Am. 2008, Act 406, Imd. Eff. Jan. 6, 2009.

Popular name: CCW

Popular name: Concealed Weapons

Popular name: Right to Carry

Popular name: Shall Issue

28.429b Basic pistol safety pamphlet and questionnaires; printing and distribution.

Sec. 9b. The department of state police shall print the basic pistol safety pamphlet and basic pistol safety questionnaires approved by the department of state police, and shall distribute the pamphlet and the questionnaires free of charge to entities authorized to issue licenses under section 2.

History: Add. 1990, Act 320, Eff. Mar. 28, 1991;—Am. 2008, Act 406, Imd. Eff. Jan. 6, 2009.

Popular name: CCW

Popular name: Concealed Weapons

Popular name: Right to Carry

Popular name: Shall Issue

28.429c Distribution of basic pistol safety pamphlet.

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Sec. 9c. Entities authorized to issue licenses under section 2 shall distribute a basic pistol safety pamphlet received by that entity from the department of state police free of charge to each person who requests a copy of the pamphlet.

History: Add. 1990, Act 320, Eff. Mar. 28, 1991.

Popular name: CCW

Popular name: Concealed Weapons

Popular name: Right to Carry

Popular name: Shall Issue

28.429d Repealed. 2000, Act 381, Eff. July 1, 2001.

Compiler's note: The repealed section pertained to forfeiture of firearm.

Popular name: CCW

Popular name: Concealed Weapons

Popular name: Right to Carry

Popular name: Shall Issue

28.430 Theft of firearm; report required; failure to report theft as civil violation; penalty.

Sec. 10. (1) A person who owns a firearm shall, within 5 days after he or she knows his or her firearm is stolen, report the theft to a police agency having jurisdiction over that theft.

(2) A person who fails to report the theft of a firearm as required under subsection (1) is responsible for a civil violation and may be fined not more than $500.00.

History: Add. 1990, Act 320, Eff. Mar. 28, 1991.

Compiler's note: Former sections 10 and 11 were not compiled.

Popular name: CCW

Popular name: Concealed Weapons

Popular name: Right to Carry

Popular name: Shall Issue

28.431 Review of criminal histories; report; rules.

Sec. 11. Before January 1, 1995, the director of the state police shall, if sufficient money is appropriated by the legislature, by rules promulgated by the department of state police, provide a system for the expeditious review of the criminal histories of individuals who purchase firearms and file with the legislature a written report of his or her findings and conclusions.

History: Add. 1990, Act 320, Eff. Mar. 28, 1991.

Popular name: CCW

Popular name: Concealed Weapons

Popular name: Right to Carry

Popular name: Shall Issue

28.432 Inapplicability of MCL 28.422; citation as “Janet Kukuk act”.

Sec. 12. (1) Section 2 does not apply to any of the following:

(a) A police or correctional agency of the United States or of this state or any subdivision of this state.

(b) The United States army, air force, navy, or marine corps.

(c) An organization authorized by law to purchase or receive weapons from the United States or from this state.

(d) The national guard, armed forces reserves, or other duly authorized military organization.

(e) A member of an entity or organization described in subdivisions (a) through (d) for a pistol while engaged in the course of his or her duties with that entity or while going to or returning from those duties.

(f) A United States citizen holding a license to carry a pistol concealed upon his or her person issued by another state.

(g) The regular and ordinary transportation of a pistol as merchandise by an authorized agent of a person licensed to manufacture firearms or a licensed dealer.

(h) Purchasing, owning, carrying, possessing, using, or transporting an antique firearm. As used in this subdivision, "antique firearm" means that term as defined in section 231a of the Michigan penal code, 1931 PA 328, MCL 750.231a.

(i) An individual carrying, possessing, using, or transporting a pistol belonging to another individual, if the other individual's possession of the pistol is authorized by law and the individual carrying, possessing, using,

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or transporting the pistol has obtained a license under section 5b to carry a concealed pistol or is exempt from licensure as provided in section 12a.

(2) The amendatory act that added subsection (1)(h) shall be known and may be cited as the "Janet Kukuk act".

History: 1927, Act 372, Eff. Sept. 5, 1927;—CL 1929, 16761;—CL 1948, 28.432;—Am. 1964, Act 216, Eff. Aug. 28, 1964;—Am. 2000, Act 381, Eff. July 1, 2001;—Am. 2004, Act 99, Imd. Eff. May 13, 2004;—Am. 2006, Act 75, Eff. July 1, 2006;—Am. 2008, Act 195, Eff. Jan. 7, 2009.

Popular name: CCW

Popular name: Concealed Weapons

Popular name: Right to Carry

Popular name: Shall Issue

28.432a Persons to whom requirements inapplicable; "local corrections officer" defined.

Sec. 12a. (1) The requirements of this act for obtaining a license to carry a concealed pistol do not apply to any of the following:

(a) A peace officer of a duly authorized police agency of the United States or of this state or a political subdivision of this state, who is regularly employed and paid by the United States or this state or a subdivision of this state, except a township constable.

(b) A constable who is trained and certified under the commission on law enforcement standards act, 1965 PA 203, MCL 28.601 to 28.616, while engaged in his or her official duties or going to or coming from his or her official duties, and who is regularly employed and paid by a political subdivision of this state.

(c) A person regularly employed by the department of corrections and authorized in writing by the director of the department of corrections to carry a concealed pistol during the performance of his or her duties or while going to or returning from his or her duties.

(d) A person regularly employed as a local corrections officer by a county sheriff, who is trained in the use of force and is authorized in writing by the county sheriff to carry a concealed pistol during the performance of his or her duties.

(e) A person regularly employed in a city jail or lockup who has custody of persons detained or incarcerated in the jail or lockup, is trained in the use of force, and is authorized in writing by the chief of police or the county sheriff to carry a concealed pistol during the performance of his or her duties.

(f) A member of the United States army, air force, navy, or marine corps while carrying a concealed pistol in the line of duty.

(g) A member of the national guard, armed forces reserves, or other duly authorized military organization while on duty or drill or while going to or returning from his or her place of assembly or practice or while carrying a concealed pistol for purposes of that military organization.

(h) A resident of another state who is licensed by that state to carry a concealed pistol.

(i) The regular and ordinary transportation of a pistol as merchandise by an authorized agent of a person licensed to manufacture firearms.

(j) A person while carrying a pistol unloaded in a wrapper or container in the trunk of his or her vehicle or, if the vehicle does not have a trunk, from transporting that pistol unloaded in a locked compartment or container that is separated from the ammunition for that pistol from the place of purchase to his or her home or place of business or to a place of repair or back to his or her home or place of business, or in moving goods from 1 place of abode or business to another place of abode or business.

(k) A peace officer or law enforcement officer from Canada.

(2) As used in this act, "local corrections officer" means that term as defined in section 2 of the local corrections officers training act, 2003 PA 125, MCL 791.532.

History: Add. 1964, Act 216, Eff. Aug. 28, 1964;—Am. 1976, Act 102, Imd. Eff. Apr. 27, 1976;—Am. 1978, Act 282, Imd. Eff. July 6, 1978;—Am. 1978, Act 519, Imd. Eff. Dec. 19, 1978;—Am. 2000, Act 381, Eff. July 1, 2001;—Am. 2002, Act 719, Eff. July 1, 2003;—Am. 2006, Act 559, Imd. Eff. Dec. 29, 2006.

Popular name: CCW

Popular name: Concealed Weapons

Popular name: Right to Carry

Popular name: Shall Issue

28.432b Signaling devices to which MCL 28.422 inapplicable.

Sec. 12b. Section 2 does not apply to a signaling device that is approved by the United States coast guard pursuant to regulations issued under 46 USC 481, or under 46 USC 1454.

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History: Add. 1982, Act 182, Eff. July 1, 1982;—Am. 2008, Act 195, Eff. Jan. 7, 2009.

Popular name: CCW

Popular name: Concealed Weapons

Popular name: Right to Carry

Popular name: Shall Issue

28.432c Repealed. 2000, Act 381, Eff. July 1, 2001.

Compiler's note: The repealed section pertained to license renewal.

Popular name: CCW

Popular name: Concealed Weapons

Popular name: Right to Carry

Popular name: Shall Issue

28.433 Unlawful possession of weapon; complaint, search warrant, seizure.

Sec. 13. When complaint shall be made on oath to any magistrate authorized to issue warrants in criminal cases that any pistol or other weapon or device mentioned in this act is unlawfully possessed or carried by any person, such magistrate shall, if he be satisfied that there is reasonable cause to believe the matters in said complaint be true, issue his warrant directed to any peace officer, commanding him to search the person or place described in such complaint, and if such pistol, weapon or device be there found, to seize and hold the same as evidence of a violation of this act.

History: 1927, Act 372, Eff. Sept. 5, 1927;—CL 1929, 16762;—CL 1948, 28.433.

Popular name: CCW

Popular name: Concealed Weapons

Popular name: Right to Carry

Popular name: Shall Issue

28.434 Unlawful possession; weapon forfeited to state; disposal; immunity.

Sec. 14. (1) Subject to section 5g, all pistols, weapons, or devices carried or possessed contrary to this act are declared forfeited to the state, and shall be turned over to the director of the department of state police or his or her designated representative, for disposal under this section.

(2) The director of the department of state police shall dispose of firearms under this section by 1 of the following methods:

(a) By conducting a public auction in which firearms received under this section may be purchased at a sale conducted in compliance with section 4708 of the revised judicature act of 1961, 1961 PA 236, MCL 600.4708, by individuals authorized by law to possess those firearms.

(b) By destroying them.

(c) By any other lawful manner prescribed by the director of the department of state police.

(3) Before disposing of a firearm under this section, the director of the department of state police shall do both of the following:

(a) Determine through the law enforcement information network whether the firearm has been reported lost or stolen. If the firearm has been reported lost or stolen and the name and address of the owner can be determined, the director of the department of state police shall provide 30 days' written notice of his or her intent to dispose of the firearm under this section to the owner, and allow the owner to claim the firearm within that 30-day period if he or she is authorized to possess the firearm.

(b) Provide 30 days' notice to the public on the department of state police website of his or her intent to dispose of the firearm under this section. The notice shall include a description of the firearm and shall state the firearm's serial number, if the serial number can be determined. The department of state police shall allow the owner of the firearm to claim the firearm within that 30-day period if he or she is authorized to possess the firearm. The 30-day period required under this subdivision is in addition to the 30-day period required under subdivision (a).

(4) The department of state police is immune from civil liability for disposing of a firearm in compliance with this section.

History: 1927, Act 372, Eff. Sept. 5, 1927;—CL 1929, 16763;—Am. 1943, Act 113, Eff. July 30, 1943;—CL 1948, 28.434;—Am. 2000, Act 381, Eff. July 1, 2001.

Popular name: CCW

Popular name: Concealed Weapons

Popular name: Right to Carry

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28.435 Sale of firearms by federally licensed firearms dealer; sale of trigger lock or secured container; exceptions; brochure or pamphlet; statement of compliance; notice of liability; action by political subdivision against firearm or ammunition producer prohibited; rights of state attorney general; exceptions; effect of subsections (9) through (11); violation; penalties; definitions.

Sec. 15. (1) Except as provided in subsection (2), a federally licensed firearms dealer shall not sell a firearm in this state unless the sale includes 1 of the following:

(a) A commercially available trigger lock or other device designed to disable the firearm and prevent the discharge of the firearm.

(b) A commercially available gun case or storage container that can be secured to prevent unauthorized access to the firearm.

(2) This section does not apply to any of the following:

(a) The sale of a firearm to a police officer or a police agency.

(b) The sale of a firearm to a person who presents to the federally licensed firearms dealer 1 of the following:

(*i*) A trigger lock or other device designed to disable the firearm and prevent the discharge of the firearm together with a copy of the purchase receipt for the federally licensed firearms dealer to keep. A separate trigger lock or device and a separate purchase receipt shall be required for each firearm purchased.

(*ii*) A gun case or storage container that can be secured to prevent unauthorized access to the firearm together with a copy of the purchase receipt for the federally licensed firearms dealer to keep. A separate gun case or storage container and a separate purchase receipt shall be required for each firearm purchased.

(c) The sale of an antique firearm. As used in this subdivision, “antique firearm” means that term as defined in section 231a of the Michigan penal code, 1931 PA 328, MCL 750.231a.

(d) The sale or transfer of a firearm if the seller is not a federally licensed firearms dealer.

(3) A federally licensed firearms dealer shall not sell a firearm in this state unless the firearm is accompanied with, free of charge, a brochure or pamphlet that includes safety information on the use and storage of the firearm in a home environment.

(4) Upon the sale of a firearm, a federally licensed firearms dealer shall sign a statement and require the purchaser to sign a statement stating that the sale is in compliance with subsections (1), (2), and (3).

(5) A federally licensed firearms dealer shall retain a copy of the signed statements prescribed in subsection (4) and, if applicable, a copy of the receipt prescribed in subsection (2)(b), for at least 6 years.

(6) A federally licensed firearms dealer in this state shall post in a conspicuous manner at the entrances, exits, and all points of sale on the premises where firearms are sold a notice that says the following: “You may be criminally and civilly liable for any harm caused by a person less than 18 years of age who lawfully gains unsupervised access to your firearm if unlawfully stored.”.

(7) A federally licensed firearms dealer is not liable for damages arising from the use or misuse of a firearm if the sale complies with this section, any other applicable law of this state, and applicable federal law.

(8) This section does not create a civil action or liability for damages arising from the use or misuse of a firearm or ammunition for a person, other than a federally licensed firearms dealer, who produces a firearm or ammunition.

(9) Subject to subsections (10) to (12), a political subdivision shall not bring a civil action against any person who produces a firearm or ammunition. The authority to bring a civil action under this section is reserved exclusively to the state and can be brought only by the attorney general. The court shall award costs and reasonable attorney fees to each defendant named in a civil action filed in violation of this subsection.

(10) Subject to subsection (11), subsection (9) does not prohibit a civil action by a political subdivision based on 1 or more of the following, which the court shall narrowly construe:

(a) A breach of contract, other contract issue, or an action based on a provision of the uniform commercial code, 1962 PA 174, MCL 440.1101 to 440.11102, in which the political subdivision is the purchaser and owner of the firearm or ammunition.

(b) Expressed or implied warranties arising from the purchase of a firearm or ammunition by the political subdivision or the use of a firearm or ammunition by an employee or agent of the political subdivision.

(c) A product liability, personal injury, or wrongful death action when an employee or agent or property of the political subdivision has been injured or damaged as a result of a defect in the design or manufacture of the firearm or ammunition purchased and owned by the political subdivision.

(11) Subsection (10) does not allow an action based on any of the following:

(a) A firearm's or ammunition's inherent potential to cause injury, damage, or death.

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(b) Failure to warn the purchaser, transferee, or user of the firearm's or ammunition's inherent potential to cause injury, damage, or death.

(c) Failure to sell with or incorporate into the product a device or mechanism to prevent a firearm or ammunition from being discharged by an unauthorized person unless specifically provided for by contract.

(12) Subsections (9) through (11) do not create a civil action.

(13) Subsections (9) through (11) are intended only to clarify the current status of the law in this state, are remedial in nature, and, therefore, apply to a civil action pending on the effective date of this act.

(14) Beginning September 1, 2000, a person who violates this section is guilty of a crime as follows:

(a) Except as provided in subdivision (b) or (c), the person is guilty of a misdemeanor punishable by imprisonment for not more than 93 days or a fine of not more than $500.00, or both.

(b) For a second conviction, the person is guilty of a misdemeanor punishable by imprisonment for not more than 1 year or a fine of not more than $1,000.00, or both.

(c) For a third or subsequent conviction, the person is guilty of a felony punishable by imprisonment for not more than 2 years or a fine of not more than $5,000.00, or both.

(15) As used in this section:

(a) “Federally licensed firearms dealer” means a person licensed under section 923 of title 18 of the United States Code, 18 U.S.C. 923.

(b) “Firearm or ammunition” includes a component of a firearm or ammunition.

(c) “Person” means an individual, partnership, corporation, association, or other legal entity.

(d) “Political subdivision” means a county, city, village, township, charter township, school district, community college, or public university or college.

(e) “Produce” means to manufacture, construct, design, formulate, develop standards for, prepare, process, assemble, inspect, test, list, certify, give a warning or instructions regarding, market, sell, advertise, package, label, distribute, or transfer.

History: Add. 2000, Act 265, Imd. Eff. June 29, 2000.

Popular name: CCW

Popular name: Concealed Weapons

Popular name: Right to Carry

Popular name: Shall Issue

HOUSING UNITS
Act 227 of 1947

28.501-28.506 Repealed. 1976, Act 7, Imd. Eff. Feb. 11, 1976.

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PUBLIC BODY LAW ENFORCEMENT AGENCY ACT
Act 378 of 2004

AN ACT to allow certain public bodies to create law enforcement agencies and grant certain powers and authority to law enforcement officers employed by those agencies; to require those law enforcement officers to meet certain standards; to prescribe certain powers and duties of those law enforcement agencies; to provide for certain powers of public bodies; and to provide for certain powers and duties of state and local agencies and officers.

History: 2004, Act 378, Imd. Eff. Oct. 12, 2004.

The People of the State of Michigan enact:

28.581 Short title.

Sec. 1. This act shall be known and may be cited as the "public body law enforcement agency act".

History: 2004, Act 378, Imd. Eff. Oct. 12, 2004.

28.582 Definitions.

Sec. 2. As used in this act:

(a) "Governing entity" means either of the following, as applicable:

(*i*) For any public body except a public body described in subparagraph (*ii*), the governing board of the public body.

(*ii*) In the case of a public body that is a qualifying school district under part 5a of the revised school code, 1976 PA 451, MCL 380.371 to 380.376, the chief executive officer of the school district, subject to the concurrence of the school reform board of the school district.

(b) "Public body" means either of the following, within this state:

(*i*) A multicounty metropolitan district authorized and established pursuant to state law by 2 or more counties with a combined population of not less than 3,000,000, for the purpose of cooperative planning, promoting, acquiring, constructing, owning, developing, maintaining, or operating parks.

(*ii*) A school district in this state that has a membership of at least 20,000 pupils and that includes in its territory a city with a population of at least 180,000 as of the most recent federal decennial census.

History: 2004, Act 378, Imd. Eff. Oct. 12, 2004.

28.583 Creation of law enforcement agency by public body.

Sec. 3. A public body may create a law enforcement agency by resolution of its governing entity. The public body may grant to law enforcement officers of that law enforcement agency the same powers, immunities, and authority as are granted by law to peace officers and police officers to detect crime and to enforce the criminal laws of this state and to enforce state laws, local ordinances, and the ordinances and regulations of the public body. Law enforcement officers to whom the authority of peace officers and police officers is granted under this section are considered peace officers of this state and have the authority of police officers provided under the Michigan vehicle code, 1949 PA 300, MCL 257.1 to 257.923, and as provided under the code of criminal procedure, 1927 PA 175, MCL 760.1 to 777.69.

History: 2004, Act 378, Imd. Eff. Oct. 12, 2004.

28.584 Approval of prosecuting attorney and sheriff; public hearings.

Sec. 4. (1) A public body shall not create a law enforcement agency under this act unless, before that agency is created, the governing entity obtains the approval of the prosecuting attorney of each county within which the public body owns, maintains, or controls property. If the property of the public body is located entirely within 1 city, the public body also shall obtain the approval of the chief of police of that city. If the property of the public body is not located entirely within 1 city, the public body also shall obtain the approval of the sheriff of each county within which the public body owns, maintains, or controls property. If all the property of the public body is located within a county which does not have a first class school district as defined in 1976 PA 451, the public body shall also obtain the approval of the county sheriff. Before granting that approval, the prosecuting attorney, the sheriff, if required, and the chief of police, if required, shall make a determination that the proposed law enforcement agency is needed to assure adequate public safety on the property of the public body and that the proposed agency can comply with the minimum guidelines established under section 6.

(2) In addition to the requirements of subsection (1), before creating a law enforcement agency under this act, the governing entity shall hold not fewer than 2 public hearings in the proposed law enforcement agency's

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jurisdiction on the question of creating the proposed law enforcement agency. The governing entity shall make a record of the hearing and shall provide copies of the record to all of the prosecuting attorneys, sheriffs, and chiefs of police from whom approval is required by this section.

History: 2004, Act 378, Imd. Eff. Oct. 12, 2004.

28.585 Law enforcement agency oversight committee.

Sec. 5. (1) A public body that creates a law enforcement agency under this act shall appoint a law enforcement agency oversight committee consisting of not less than 6 individuals nominated and appointed by the governing entity of the public body, as follows:

(a) Two elected officials from a city, village, township, or county in which all or part of the property of the public body is located.

(b) Not less than 2 representatives of local law enforcement, 1 of whom shall not be of supervisory or management rank.

(c) Two individuals representing the general public who reside within the proposed law enforcement agency's jurisdiction.

(2) A law enforcement agency oversight committee shall receive and address public complaints concerning that law enforcement agency or its officers. The committee may recommend to the public body that an investigation be conducted regarding alleged misconduct by any law enforcement officer from that law enforcement agency.

(3) A law enforcement agency created under this act shall not begin operations until the oversight committee for that law enforcement agency is appointed and takes office.

History: 2004, Act 378, Imd. Eff. Oct. 12, 2004.

28.586 Requirement of public funding, liability insurance, and written policies.

Sec. 6. (1) A law enforcement agency created under this act shall comply with all of the following:

(a) The agency shall be funded by the appropriation of public funds only.

(b) The agency shall maintain liability insurance.

(c) The agency shall establish and abide by written policies pertaining to all of the following:

(*i*) The authority of its law enforcement officers, including the extent of those officers' authority to enforce the criminal laws of this state and other state laws, local ordinances, and ordinances and regulations of the public body. If the law enforcement officers of that agency are granted any additional authority through deputization by a county sheriff or chief of police, the written policies shall describe that authority.

(*ii*) The specific geographic boundaries of the agency's jurisdiction.

(*iii*) The authority and responsibility of the chief law enforcement officer of the agency.

(*iv*) Employee discipline.

(*v*) The legal status of agencies and personnel who respond to mutual aid requests.

(*vi*) Any other written policy or procedure consistent with a policy or procedure implemented by the sheriff or chief of police whose approval is required under section 4.

(*vii*) The requirements of section 9d of the commission on law enforcement standards act, 1965 PA 203, MCL 28.609d.

(*viii*) Any other policy or procedure required by statute.

(d) The agency shall develop and maintain an organizational chart describing the structure of the agency and the responsibilities and authority within the agency and shall develop and maintain written employment position descriptions for all personnel in the agency.

(2) A public body that creates a law enforcement agency under this act shall present written documentation of compliance with this section to each county prosecuting attorney and sheriff, or chief of police when applicable, before approval is granted under section 4. A copy of this documentation shall be filed with the commission on law enforcement standards along with written approval from all affected prosecuting attorneys, sheriffs, or chiefs of police.

(3) The public body shall maintain compliance with the requirements of this section. Failure to maintain these minimum standards shall constitute just cause for the county prosecuting attorneys and sheriffs or chiefs of police, by unanimous written approval, to withdraw the approval granted under section 4. Before withdrawal of that approval, the prosecuting attorney and sheriff or chief of police shall hold not fewer than 2 public hearings in the law enforcement agency's jurisdiction on the question of whether maintenance of minimum standards has failed.

History: 2004, Act 378, Imd. Eff. Oct. 12, 2004.

28.587 Compliance with law enforcement standards act.

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Sec. 7. (1) A public body that creates a law enforcement agency under this act shall comply with the requirements of section 9d of the commission on law enforcement standards act, 1965 PA 203, MCL 28.609d.

(2) Law enforcement officers to whom the powers and authority of peace and police officers are granted under section 3 shall meet the minimum employment standards of the commission on law enforcement standards act, 1965 PA 203, MCL 28.601 to 28.616.

History: 2004, Act 378, Imd. Eff. Oct. 12, 2004.

28.588 Passage of rules, regulations, and ordinances by multicounty metropolitan district; penalties; notice.

Sec. 8. (1) The governing board of a public body that is a multicounty metropolitan district may do the following:

(a) Adopt and amend all necessary rules, regulations, and ordinances for the management, government, and use of any property under its control, establish penalties for the violation of the rules, regulations, and ordinances, and enforce the penalties.

(b) Adopt and enact rules, regulations, and ordinances designed to safeguard the public peace and health and for the safety of persons and property upon or within the limits of the properties under its control. The subjects of the rules, regulations, and ordinances may include, but not be limited to, the proper policing and supervision of persons and property, the regulation or prohibition of parking, and the regulation of signs and other things which may impede or make dangerous the use of roads, lanes, or thoroughfares, within the limits of the properties under the governing board's control.

(2) The governing board of the public body that adopts an ordinance under this section shall provide in each ordinance a sanction for violation of the ordinance. Violations may be punishable by imprisonment for not more than 93 days or a fine of not more than $500.00, or both, if the violation substantially corresponds to a violation of state law that is a misdemeanor for which the maximum period of imprisonment is 93 days. To the extent permitted by state law, the governing board may adopt an ordinance that designates a violation of the ordinance as a state civil infraction and provides a civil fine for that violation.

(3) An ordinance passed by the governing board of a public body under this section shall be published once in a newspaper of general circulation within the territory of the public body. An ordinance is effective immediately upon its publication, unless a specific effective date that is subsequent to the date of the publication of the ordinance is provided for in the ordinance. The publication of a summary or a true copy of an ordinance after final passage, as a part of the published proceedings of the governing board, constitutes publication of the ordinance.

History: 2004, Act 378, Imd. Eff. Oct. 12, 2004.

28.589 Jurisdiction of law enforcement agency.

Sec. 9. (1) Except as provided in subsection (2), the jurisdiction of law enforcement officers appointed under section 3 is limited to property owned or leased by the public body, wherever situated in this state, and shall extend to any public right-of-way traversing or immediately contiguous to the property. The jurisdiction of those law enforcement officers may be extended by state law governing peace officers or through deputization by a county sheriff if authorized by the governing entity.

(2) Notwithstanding subsection (1), the jurisdiction of law enforcement officers who are granted powers and authority under section 3 and are employed by a school district shall include all territory within the boundaries of the school district and all property outside the boundaries of the school district that is owned, leased, or rented by or is otherwise under the legal control of the school district that employs the public safety officers.

(3) A public law enforcement agency established under section 3 and each local law enforcement agency with which it has overlapping jurisdiction shall enter into a memorandum of understanding that establishes reasonable communication and coordination efforts between those law enforcement agencies. If the public law enforcement agency is a qualifying school district under section 2(b)(*ii*), the memorandum of understanding shall also establish jurisdiction of the public law enforcement agency.

(4) This act does not limit the jurisdiction of state, county, or municipal peace officers.

History: 2004, Act 378, Imd. Eff. Oct. 12, 2004.

28.590 Submission of monthly uniform crime reports.

Sec. 10. A law enforcement agency created under this act shall submit monthly uniform crime reports pertaining to crimes occurring within the agency's jurisdiction to the department of state police in the manner prescribed in section 1 of 1968 PA 319, MCL 28.251.

History: 2004, Act 378, Imd. Eff. Oct. 12, 2004.

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COMMISSION ON LAW ENFORCEMENT STANDARDS ACT
Act 203 of 1965

AN ACT to provide for the creation of the commission on law enforcement standards; to prescribe its membership, powers, and duties; to prescribe the reporting responsibilities of certain state and local agencies; to provide for additional costs in criminal cases; to provide for the establishment of the law enforcement officers training fund; and to provide for disbursement of allocations from the law enforcement officers training fund to local agencies of government participating in a police training program.

History: 1965, Act 203, Eff. Jan. 1, 1966;—Am. 1998, Act 237, Imd. Eff. July 3, 1998.

The People of the State of Michigan enact:

28.601 Short title.

Sec. 1. This act shall be known and may be cited as the “commission on law enforcement standards act”.

History: 1965, Act 203, Eff. Jan. 1, 1966;—Am. 1998, Act 237, Imd. Eff. July 3, 1998.

Compiler's note: For transfer of statutory authority, powers, duties, functions, and responsibilities of the Michigan justice training commission, the Michigan justice training fund, the commission on law enforcement standards, and the law enforcement officers training fund to the new Michigan commission on law enforcement standards by type III transfer, see E.R.O. No. 2001-2, compiled at MCL 28.621 of the Michigan compiled laws.

Transfer of powers: See MCL 16.257.

28.602 Definitions.

Sec. 2. As used in this act:

(a) "Certificate" means a numbered document issued by the commission to a person who has received certification under this act.

(b) "Certification" means either of the following:

(*i*) A determination by the commission that a person meets the law enforcement officer minimum standards to be employed as a commission certified law enforcement officer and that the person is authorized under this act to be employed as a law enforcement officer.

(*ii*) A determination by the commission that a person was employed as a law enforcement officer before January 1, 1977 and that the person is authorized under this act to be employed as a law enforcement officer.

(c) "Commission" means the commission on law enforcement standards created in section 3.

(d) "Contested case" means that term as defined in section 3 of the administrative procedures act of 1969, 1969 PA 306, MCL 24.203.

(e) "Executive director" means the executive director of the commission appointed under section 12.

(f) "Felony" means a violation of a penal law of this state or another state that is either of the following:

(*i*) Punishable by a term of imprisonment greater than 1 year.

(*ii*) Expressly designated a felony by statute.

(g) "Fund" means the law enforcement officers training fund created in section 13.

(h) "Law enforcement officer minimum standards" means standards established by the commission under this act that a person must meet to be eligible for certification under section 9a(1).

(i) "Law enforcement officer of a Michigan Indian tribal police force" means a regularly employed member of a police force of a Michigan Indian tribe who is appointed pursuant to former 25 CFR 12.100 to 12.103.

(j) "Michigan Indian tribe" means a federally recognized Indian tribe that has trust lands located within this state.

(k) "Multicounty metropolitan district" means an entity authorized and established pursuant to state law by 2 or more counties with a combined population of not less than 3,000,000, for the purpose of cooperative planning, promoting, acquiring, constructing, owning, developing, maintaining, or operating parks.

(*l*) "Police officer" or "law enforcement officer" means, unless the context requires otherwise, any of the following:

(*i*) A regularly employed member of a law enforcement agency authorized and established pursuant to law, including common law, who is responsible for the prevention and detection of crime and the enforcement of the general criminal laws of this state. Police officer or law enforcement officer does not include a person serving solely because he or she occupies any other office or position.

(*ii*) A law enforcement officer of a Michigan Indian tribal police force, subject to the limitations set forth in section 9(3).

(*iii*) The sergeant at arms or any assistant sergeant at arms of either house of the legislature who is

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commissioned as a police officer by that respective house of the legislature as provided by the legislative sergeant at arms police powers act, 2001 PA 185, MCL 4.381 to 4.382.

(*iv*) A law enforcement officer of a multicounty metropolitan district, subject to the limitations of section 9(7).

(*v*) A county prosecuting attorney's investigator sworn and fully empowered by the sheriff of that county.

(*vi*) Until December 31, 2007, a law enforcement officer of a school district in this state that has a membership of at least 20,000 pupils and that includes in its territory a city with a population of at least 180,000 as of the most recent federal decennial census.

(*vii*) A fire arson investigator from a fire department within a city with a population of not less than 750,000 who is sworn and fully empowered by the city chief of police.

(m) "Rule" means a rule promulgated pursuant to the administrative procedures act of 1969, 1969 PA 306, MCL 24.201 to 24.328.

History: 1965, Act 203, Eff. Jan. 1, 1966;—Am. 1968, Act 220, Imd. Eff. June 24, 1968;—Am. 1970, Act 187, Imd. Eff. Jan. 1, 1971 ;—Am. 1994, Act 155, Eff. Mar. 30, 1995;—Am. 1995, Act 204, Imd. Eff. Nov. 29, 1995;—Am. 1998, Act 237, Imd. Eff. July 3, 1998; —Am. 2001, Act 186, Imd. Eff. Dec. 21, 2001;—Am. 2004, Act 379, Imd. Eff. Oct. 12, 2004.

Compiler's note: For transfer of statutory authority, powers, duties, functions, and responsibilities of the Michigan justice training commission, the Michigan justice training fund, the commission on law enforcement standards, and the law enforcement officers training fund to the new Michigan commission on law enforcement standards by type III transfer, see E.R.O. No. 2001-2, compiled at MCL 28.621 of the Michigan compiled laws.

28.603 Commission on law enforcement standards; creation; membership; terms.

Sec. 3. (1) The commission on law enforcement standards is created to carry out the intent of this act.

(2) The commission consists of the following 11 members:

(a) The attorney general, or his or her designated representative.

(b) The director of the department of state police, or his or her designated representative.

(c) Nine members appointed by the governor, with the advice and consent of the senate, as follows:

(*i*) Three individuals selected from a list of 6 active voting members of and submitted by the Michigan association of chiefs of police or its successor organization.

(*ii*) Three individuals selected from a list of 6 elected sheriffs submitted by the Michigan sheriffs' association or its successor organization.

(*iii*) One individual selected from a list of 3 names submitted by the Michigan chapter of the fraternal order of the police or its successor organization.

(*iv*) One individual selected from a list of 3 names submitted by the police officers association of Michigan or its successor organization.

(*v*) One individual selected from a list of 3 individuals submitted by the Detroit police officers associations or their successor organizations.

(d) An individual selected under subdivision (c) shall serve as a commission member only while serving as a member of the respective organizations in subparagraphs (*i*) to (*v*).

(3) The terms of the members of the law enforcement officers training council expire on the date that all members of the commission on law enforcement standards are appointed.

History: 1965, Act 203, Eff. Jan. 1, 1966;—Am. 1996, Act 545, Imd. Eff. Jan. 15, 1997;—Am. 1998, Act 237, Imd. Eff. July 3, 1998 .

Compiler's note: For transfer of statutory authority, powers, duties, functions, and responsibilities of the Michigan justice training commission, the Michigan justice training fund, the commission on law enforcement standards, and the law enforcement officers training fund to the new Michigan commission on law enforcement standards by type III transfer, see E.R.O. No. 2001-2, compiled at MCL 28.621 of the Michigan compiled laws.

28.604 Commission on law enforcement standards; terms; vacancies; reappointment.

Sec. 4. (1) Except as otherwise provided in this subsection, members of the commission appointed under section 3(2)(c) shall hold office for a term of 3 years. Of the members initially appointed from the list of nominees submitted by the Michigan association of chiefs of police, 1 member shall be appointed for a term of 3 years, 1 member shall be appointed for a term of 2 years, and 1 member shall be appointed for a term of 1 year. Of the members initially appointed from the list of nominees submitted by the Michigan sheriffs' association, 1 member shall be appointed for a term of 3 years, 1 member shall be appointed for a term of 2 years, and 1 member shall be appointed for a term of 1 year.

(2) A vacancy on the commission caused by expiration of a term or termination of a member's official position in law enforcement shall be filled in the same manner as the original appointment.

(3) A member appointed to fill a vacancy created other than by expiration of a term shall be appointed for the unexpired term of the member who he or she is to succeed in the same manner as the original

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appointment. A member may be reappointed for additional terms.

History: 1965, Act 203, Eff. Jan. 1, 1966;—Am. 1998, Act 237, Imd. Eff. July 3, 1998.

Compiler's note: For transfer of statutory authority, powers, duties, functions, and responsibilities of the Michigan justice training commission, the Michigan justice training fund, the commission on law enforcement standards, and the law enforcement officers training fund to the new Michigan commission on law enforcement standards by type III transfer, see E.R.O. No. 2001-2, compiled at MCL 28.621 of the Michigan compiled laws.

28.605 Commission on law enforcement standards; officers; terms; limitations of power; disqualification from public office or employment.

Sec. 5. (1) The commission shall elect from among its members a chairperson and a vice-chairperson who shall serve for 1-year terms and who may be reelected.

(2) Membership on the commission does not constitute holding a public office, and members of the commission are not required to take and file oaths of office before serving on the commission.

(3) The commission does not have the right to exercise any portion of the sovereign power of the state.

(4) A member of the commission is not disqualified from holding any public office or employment by reason of his or her appointment or membership on the commission and shall not forfeit any public office or employment because of his or her appointment to the commission, notwithstanding any general, special, or local law, ordinance, or city charter.

History: 1965, Act 203, Eff. Jan. 1, 1966;—Am. 1998, Act 237, Imd. Eff. July 3, 1998.

Compiler's note: For transfer of statutory authority, powers, duties, functions, and responsibilities of the Michigan justice training commission, the Michigan justice training fund, the commission on law enforcement standards, and the law enforcement officers training fund to the new Michigan commission on law enforcement standards by type III transfer, see E.R.O. No. 2001-2, compiled at MCL 28.621 of the Michigan compiled laws.

28.606 Commission on law enforcement standards; procedures and requirements; conducting business at public meeting; notice.

Sec. 6. (1) The commission shall meet not less than 4 times in each year and shall hold special meetings when called by the chairperson or, in the absence of the chairperson, by the vice-chairperson. A special meeting of the commission shall be called by the chairperson upon the written request of 5 members of the commission.

(2) The commission shall establish its own procedures and requirements with respect to quorum, place and conduct of its meetings, and other matters.

(3) The commission's business shall be conducted in compliance with the open meetings act, 1976 PA 267, MCL 15.261 to 15.275. Public notice of the time, date, and place of the meeting shall be given in the manner required by the open meetings act, 1976 PA 267, MCL 15.261 to 15.275.

History: 1965, Act 203, Eff. Jan. 1, 1966;—Am. 1978, Act 185, Imd. Eff. June 4, 1978;—Am. 1998, Act 237, Imd. Eff. July 3, 1998.

Compiler's note: For transfer of statutory authority, powers, duties, functions, and responsibilities of the Michigan justice training commission, the Michigan justice training fund, the commission on law enforcement standards, and the law enforcement officers training fund to the new Michigan commission on law enforcement standards by type III transfer, see E.R.O. No. 2001-2, compiled at MCL 28.621 of the Michigan compiled laws.

28.607 Commission on law enforcement standards; annual report to governor.

Sec. 7. The commission shall make an annual report to the governor that includes pertinent data regarding the law enforcement officer minimum standards and the degree of participation of municipalities in the training programs.

History: 1965, Act 203, Eff. Jan. 1, 1966;—Am. 1998, Act 237, Imd. Eff. July 3, 1998.

Compiler's note: For transfer of statutory authority, powers, duties, functions, and responsibilities of the Michigan justice training commission, the Michigan justice training fund, the commission on law enforcement standards, and the law enforcement officers training fund to the new Michigan commission on law enforcement standards by type III transfer, see E.R.O. No. 2001-2, compiled at MCL 28.621 of the Michigan compiled laws.

28.608 Commission members; compensation; expenses.

Sec. 8. The members of the commission shall serve without compensation. The members of the commission are entitled to their actual expenses in attending meetings and in the performance of their official duties.

History: 1965, Act 203, Eff. Jan. 1, 1966;—Am. 1998, Act 237, Imd. Eff. July 3, 1998.

Compiler's note: For transfer of statutory authority, powers, duties, functions, and responsibilities of the Michigan justice training commission, the Michigan justice training fund, the commission on law enforcement standards, and the law enforcement officers training fund to the new Michigan commission on law enforcement standards by type III transfer, see E.R.O. No. 2001-2, compiled at MCL 28.621 of the Michigan compiled laws.

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28.609 Minimum standards; rules; exceptions; factors and special requirements; waiver; certification; officer called to armed forces active duty; authority of law enforcement officer of Michigan Indian tribal police force; waiver from minimum standards regarding training programs.

Sec. 9. (1) The commission shall promulgate rules to establish law enforcement officer minimum standards. The rules do not apply to a member of a sheriff's posse or a police auxiliary temporarily performing his or her duty under the direction of the sheriff or police department. In promulgating the law enforcement officer minimum standards, the commission shall give consideration to the varying factors and special requirements of local police agencies. The law enforcement officer minimum standards shall include all of the following:

(a) Minimum standards of physical, educational, mental, and moral fitness that govern the recruitment, selection, appointment, and certification of law enforcement officers.

(b) Minimum courses of study, attendance requirements, and instructional hours required at approved police training schools.

(c) Minimum basic training requirements that a person, excluding sheriffs, shall complete before being eligible for certification under section 9a(1).

(2) If a person's certification under section 9a(1) becomes void under section 9a(4)(b), the commission shall waive the requirements described in subsection (1)(b) for certification of the person under section 9a(1) if 1 or more of the following apply:

(a) The person has been employed 1 year or less as a commission certified law enforcement officer and is again employed as a law enforcement officer within 1 year after discontinuing employment as a commission certified law enforcement officer.

(b) The person has been employed more than 1 year but less than 5 years as a commission certified law enforcement officer and is again employed as a law enforcement officer within 18 months after discontinuing employment as a commission certified law enforcement officer.

(c) The person has been employed 5 years or more as a commission certified law enforcement officer and is again employed as a law enforcement officer within 2 years after discontinuing employment as a commission certified law enforcement officer.

(d) The person has successfully completed the mandatory training and has been continuously employed as a law enforcement officer, but through no fault of that person the employing agency failed to obtain certification for that person as required by this act.

(3) A commission certified law enforcement officer who is a member of any of the reserve components of the United States armed forces and who is called to active duty in the armed forces is not considered to have discontinued his or her employment as a commission certified law enforcement officer under section 9a(4)(b). The person's certification under section 9a(1) shall not become void during that term of active military service. However, the certification of a certified law enforcement officer described in this subsection may be revoked under section 9b if the officer committed an offense during the period of active duty in the armed forces that resulted in a conviction enumerated in section 9b(1). As used in this subsection, "reserve components of the United States armed forces" means that term as defined in section 2 of the military family relief fund act, 2004 PA 363, MCL 35.1212. This subsection does not apply to a commission certified law enforcement officer who volunteers for a term of active military service or who voluntarily extends a term of active military service that began when he or she was called to active duty. This subsection does not apply to a commission certified law enforcement officer who is dishonorably discharged from a term of active military service.

(4) The commission shall promulgate rules with respect to all of the following:

(a) The categories or classifications of advanced in-service training programs for commission certified law enforcement officers and minimum courses of study and attendance requirements for the categories or classifications.

(b) The establishment of subordinate regional training centers in strategic geographic locations in order to serve the greatest number of police agencies that are unable to support their own training programs.

(c) The commission's acceptance of certified basic police training and law enforcement experience received by a person in another state in fulfillment in whole or in part of the law enforcement officer minimum standards.

(d) The commission's approval of police training schools administered by a city, county, township, village, corporation, college, community college or university.

(e) The minimum qualifications for instructors at approved police training schools.

(f) The minimum facilities and equipment required at approved police training schools.

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(g) The establishment of preservice basic training programs at colleges and universities.

(h) Acceptance of basic police training and law enforcement experience received by a person in fulfillment in whole or in part of the law enforcement officer minimum standards prepared and published by the commission if both of the following apply:

(*i*) The person successfully completed the basic police training in another state or through a federally operated police training school that was sufficient to fulfill the minimum standards required by federal law to be appointed as a law enforcement officer of a Michigan Indian tribal police force.

(*ii*) The person is or was a law enforcement officer of a Michigan Indian tribal police force for a period of 1 year or more.

(5) Except as otherwise provided in this section, a regularly employed person employed on or after January 1, 1977 as a member of a police force having a full-time officer is not empowered to exercise all the authority of a peace officer in this state, or be employed in a position for which the authority of a peace officer is conferred by statute, unless the person has received certification under section 9a(1).

(6) A law enforcement officer employed before January 1, 1977 may continue his or her employment as a law enforcement officer and participate in training programs on a voluntary or assigned basis but failure to obtain certification under section 9a(1) or (2) is not grounds for dismissal of or termination of that employment as a law enforcement officer. A person who was employed as a law enforcement officer before January 1, 1977 who fails to obtain certification under section 9a(1) and who voluntarily or involuntarily discontinues his or her employment as a law enforcement officer may be employed as a law enforcement officer if he or she was employed 5 years or more as a law enforcement officer and is again employed as a law enforcement officer within 2 years after discontinuing employment as a law enforcement officer.

(7) A law enforcement officer of a Michigan Indian tribal police force is not empowered to exercise the authority of a peace officer under the laws of this state and shall not be employed in a position for which peace officer authority is granted under the laws of this state unless all of the following requirements are met:

(a) The tribal law enforcement officer is certified under this act.

(b) The tribal law enforcement officer is 1 of the following:

(*i*) Deputized by the sheriff of the county in which the trust lands of the Michigan Indian tribe employing the tribal law enforcement officer are located, or by the sheriff of any county that borders the trust lands of that Michigan Indian tribe, pursuant to section 70 of 1846 RS 14, MCL 51.70.

(*ii*) Appointed as a police officer of the state or a city, township, charter township, or village that is authorized by law to appoint individuals as police officers.

(c) The deputation or appointment of the tribal law enforcement officer described in subdivision (b) is made pursuant to a written contract that includes terms the appointing authority under subdivision (b) may require between the state or local law enforcement agency and the tribal government of the Michigan Indian tribe employing the tribal law enforcement officer.

(d) The written contract described in subdivision (c) is incorporated into a self-determination contract, grant agreement, or cooperative agreement between the United States secretary of the interior and the tribal government of the Michigan Indian tribe employing the tribal law enforcement officer pursuant to the Indian self-determination and education assistance act, Public Law 93-638, 88 Stat. 2203.

(8) A law enforcement officer of a multicounty metropolitan district, other than a law enforcement officer employed by a law enforcement agency created under the public body law enforcement agency act, is not empowered to exercise the authority of a peace officer under the laws of this state and shall not be employed in a position for which peace officer authority is granted under the laws of this state unless all of the following requirements are met:

(a) The law enforcement officer has met or exceeded minimum standards for certification under this act.

(b) The law enforcement officer is deputized by the sheriff or sheriffs of the county or counties in which the land of the multicounty metropolitan district employing the law enforcement officer is located and in which the law enforcement officer will work, pursuant to section 70 of 1846 RS 14, MCL 51.70.

(c) The deputation or appointment of the law enforcement officer is made pursuant to a written agreement that includes terms the deputizing authority under subdivision (b) may require between the state or local law enforcement agency and the governing board of the multicounty metropolitan district employing the law enforcement officer.

(d) The written agreement described in subdivision (c) is filed with the commission.

(9) A public body that creates a law enforcement agency under the public body law enforcement agency act and that employs 1 or more law enforcement officers certified under this act shall be considered to be a law enforcement agency for purposes of section 9d.

(10) The commission may establish an evaluation or testing process, or both, for granting a waiver from the law enforcement officer minimum standards regarding training requirements to a person who has held a

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certificate under this act and who discontinues employment as a law enforcement officer for a period of time exceeding the time prescribed in subsection (2)(a) to (c) or (6), as applicable.

History: 1965, Act 203, Eff. Jan. 1, 1966;—Am. 1970, Act 187, Imd. Eff. Jan. 1, 1971;—Am. 1971, Act 31, Imd. Eff. May 26, 1971;—Am. 1976, Act 422, Imd. Eff. Jan. 11, 1977;—Am. 1985, Act 15, Imd. Eff. May 15, 1985;—Am. 1994, Act 155, Eff. Mar. 30, 1995;—Am. 1998, Act 237, Imd. Eff. July 3, 1998;—Am. 2004, Act 379, Imd. Eff. Oct. 12, 2004;—Am. 2005, Act 239, Imd. Eff. Nov. 22, 2005.

Compiler's note: For transfer of statutory authority, powers, duties, functions, and responsibilities of the Michigan justice training commission, the Michigan justice training fund, the commission on law enforcement standards, and the law enforcement officers training fund to the new Michigan commission on law enforcement standards by type III transfer, see E.R.O. No. 2001-2, compiled at MCL 28.621 of the Michigan Compiled Laws.

Administrative rules: R 28.4101 et seq.; R 28.4201 et seq.; and R 28.4351 et seq. of the Michigan Administrative Code.

28.609a Employment as law enforcement officer; certification requirements.

Sec. 9a. (1) The commission shall grant certification to a person who meets the law enforcement officer minimum standards at the time he or she is employed as a law enforcement officer.

(2) The commission shall grant certification to a person who was employed as a law enforcement officer before January 1, 1977 and who fails to meet the law enforcement officer minimum standards if the person is authorized to be employed as a law enforcement officer under section 9.

(3) The commission shall grant certification to an elected sheriff, which certification shall remain valid only while that sheriff is in office.

(4) Certification granted to a person under this act is valid until either of the following occurs:

(a) The certification is revoked.

(b) The certification becomes void because the person discontinues his or her employment as a commission certified law enforcement officer.

(5) The commission shall issue a certificate to a person who has received certification. A certificate issued to a person remains the property of the commission.

(6) Upon request of the commission, a person whose certification is revoked, or becomes void because the person discontinues his or her employment as a commission certified law enforcement officer, shall return to the commission the certificate issued to the person. A violation of this subsection is a misdemeanor, punishable by imprisonment for 90 days, a fine of not more than $500.00, or both.

History: Add. 1998, Act 237, Imd. Eff. July 3, 1998.

Compiler's note: For transfer of statutory authority, powers, duties, functions, and responsibilities of the Michigan justice training commission, the Michigan justice training fund, the commission on law enforcement standards, and the law enforcement officers training fund to the new Michigan commission on law enforcement standards by type III transfer, see E.R.O. No. 2001-2, compiled at MCL 28.621 of the Michigan compiled laws.

28.609b Revocation or suspension of certification; judicial review; jurisdiction; subpoena.

Sec. 9b. (1) The commission shall promulgate rules that provide for the revocation of certification of a law enforcement officer for 1 or more of the following:

(a) Conviction by a judge or jury of a felony.

(b) Conviction by a plea of guilty to a felony.

(c) Conviction by a plea of no contest to a felony.

(d) Making a materially false statement or committing fraud during the application for certification process.

(2) The rules shall provide for the suspension of a law enforcement officer from use of the law enforcement information network in the event the law enforcement officer wrongfully discloses information from the law enforcement information network.

(3) Except as provided in subsection (4), if the commission issues a final decision or order to revoke the certification of a law enforcement officer, that decision or order is subject to judicial review as provided in the administrative procedures act of 1969, 1969 PA 306, MCL 24.201 to 24.328.

(4) A petition for judicial review of a final decision or order of the commission revoking the certification of a law enforcement officer shall be filed only in the circuit court for Ingham county.

(5) The commission may issue a subpoena in a contested case to revoke a law enforcement officer's certification. The subpoena shall be issued as provided in section 73 of the administrative procedures act of 1969, 1969 PA 306, MCL 24.273.

History: Add. 1998, Act 237, Imd. Eff. July 3, 1998.

Compiler's note: For transfer of statutory authority, powers, duties, functions, and responsibilities of the Michigan justice training commission, the Michigan justice training fund, the commission on law enforcement standards, and the law enforcement officers training fund to the new Michigan commission on law enforcement standards by type III transfer, see E.R.O. No. 2001-2, compiled at MCL 28.621 of the Michigan compiled laws.

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28.609c Investigation of alleged violation; powers of commission.

Sec. 9c. (1) The commission may investigate alleged violations of this act or rules promulgated under this act.

(2) In conducting an investigation, the commission may hold hearings, administer oaths, issue subpoenas, and order testimony to be taken at a hearing or by deposition. A hearing held under this section shall be conducted in accordance with chapter 4 of the administrative procedures act of 1969, 1969 PA 306, MCL 24.271 to 24.287. A final decision order issued by the commission is subject to judicial review as provided by chapter 6 of the administrative procedures act of 1969, 1969 PA 306, MCL 24.301 to 24.306.

(3) The commission may issue a subpoena to do either of the following:

(a) Compel the attendance of a witness to testify at a hearing or deposition and give testimony.

(b) Produce books, papers, documents, or other items.

(4) If a subpoena issued by the commission is not obeyed, the commission may petition the circuit court to require the attendance of a witness or the production of books, papers, documents, or other items. The circuit court may issue an order requiring a person to appear and give testimony or produce books, papers, documents, or other items. Failure to obey the order of the circuit court may be punished by the court as a contempt of court.

History: Add. 1998, Act 237, Imd. Eff. July 3, 1998.

Compiler's note: For transfer of statutory authority, powers, duties, functions, and responsibilities of the Michigan justice training commission, the Michigan justice training fund, the commission on law enforcement standards, and the law enforcement officers training fund to the new Michigan commission on law enforcement standards by type III transfer, see E.R.O. No. 2001-2, compiled at MCL 28.621 of the Michigan compiled laws.

28.609d Maintenance of employment history record; reporting commencement or termination of employment date.

Sec. 9d. (1) A law enforcement agency shall maintain an employment history record for each law enforcement officer employed by the law enforcement agency in the manner prescribed by the commission.

(2) A law enforcement agency shall report the date on which each person commences or terminates employment as a law enforcement officer for the law enforcement agency in the manner prescribed by the commission.

History: Add. 1998, Act 237, Imd. Eff. July 3, 1998.

Compiler's note: For transfer of statutory authority, powers, duties, functions, and responsibilities of the Michigan justice training commission, the Michigan justice training fund, the commission on law enforcement standards, and the law enforcement officers training fund to the new Michigan commission on law enforcement standards by type III transfer, see E.R.O. No. 2001-2, compiled at MCL 28.621 of the Michigan compiled laws.

28.610 Agreements of commission with colleges, universities, or other agencies.

Sec. 10. The commission may enter into agreements with colleges, universities, or other agencies to carry out the intent of this act.

History: 1965, Act 203, Eff. Jan. 1, 1966;—Am. 1998, Act 237, Imd. Eff. July 3, 1998.

Compiler's note: For transfer of statutory authority, powers, duties, functions, and responsibilities of the Michigan justice training commission, the Michigan justice training fund, the commission on law enforcement standards, and the law enforcement officers training fund to the new Michigan commission on law enforcement standards by type III transfer, see E.R.O. No. 2001-2, compiled at MCL 28.621 of the Michigan compiled laws.

28.611 Commission on law enforcement standards; powers generally; disposition of fees.

Sec. 11. (1) The commission may do all of the following:

(a) Visit and inspect a police training school, or examine the curriculum or training procedures of a police training school, for which application for approval of the school has been made.

(b) Issue certificates of approval to police training schools.

(c) Authorize the issuance of certificates of graduation or diplomas by approved police training schools to law enforcement officers who have satisfactorily completed minimum courses of study.

(d) Cooperate with state, federal, and local police agencies to establish and conduct local or area schools, or regional training centers for instruction and training of law enforcement officers of this state and of cities, counties, townships, and villages.

(e) Make recommendations to the legislature on matters pertaining to qualification and training of law enforcement officers.

(f) Establish preservice basic training programs at colleges and universities.

(g) Require an examination for law enforcement officer certification under section 9a(1).

(h) Issue a waiver as provided for under section 9(7), or 9(3)(c), or 9(3)(h).

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(i) Establish and charge a fee to recover the cost of testing and training individuals who are not employed by a Michigan law enforcement agency.

(j) Establish and charge a fee to recover the cost of issuing and reissuing certificates for individuals who are certified as law enforcement officers in this state.

(2) Fees charged under subsection (1)(i) and (j) shall be deposited in the law enforcement officer training fund created in section 13.

History: 1965, Act 203, Eff. Jan. 1, 1966;—Am. 1976, Act 422, Imd. Eff. Jan. 11, 1977;—Am. 1985, Act 15, Imd. Eff. May 15, 1985 ;—Am. 1998, Act 237, Imd. Eff. July 3, 1998.

Compiler's note: For transfer of statutory authority, powers, duties, functions, and responsibilities of the Michigan justice training commission, the Michigan justice training fund, the commission on law enforcement standards, and the law enforcement officers training fund to the new Michigan commission on law enforcement standards by type III transfer, see E.R.O. No. 2001-2, compiled at MCL 28.621 of the Michigan compiled laws.

Administrative rules: R 28.4301 et seq. and R 28.4351 et seq. of the Michigan Administrative Code.

28.612 Executive director; appointment; term; duties; compensation.

Sec. 12. The commission shall appoint an executive director of the commission. The executive director shall hold office at the pleasure of the commission. The executive director shall perform the functions and duties that are assigned to him or her by the commission. The executive director shall receive compensation and reimbursement for expenses as provided by appropriation.

History: 1965, Act 203, Eff. Jan. 1, 1966;—Am. 1998, Act 237, Imd. Eff. July 3, 1998.

28.613 Law enforcement officers training fund; creation; appropriations.

Sec. 13. There is created in the state treasury a law enforcement officers training fund, from which, the legislature shall appropriate sums deemed necessary for the purposes of this act.

History: 1965, Act 203, Eff. Jan. 1, 1966;—Am. 1976, Act 422, Imd. Eff. Jan. 11, 1977.

Compiler's note: For transfer of statutory authority, powers, duties, functions, and responsibilities of the Michigan justice training commission, the Michigan justice training fund, the commission on law enforcement standards, and the law enforcement officers training fund to the new Michigan commission on law enforcement standards by type III transfer, see E.R.O. No. 2001-2, compiled at MCL 28.621 of the Michigan compiled laws.

28.614 Law enforcement officers training fund; payment of amounts appropriated; reimbursement of training costs and living expenses; reduction of amounts; prohibited allocations; limitation.

Sec. 14. (1) The amounts annually appropriated by the legislature from the law enforcement officers training fund shall be paid by the state treasurer as follows:

(a) In accordance with the accounting laws of the state upon certification of the executive director to reimburse an amount not to exceed the training costs incurred for each officer meeting the recruitment standards prescribed pursuant to this act during the period covered by the allocation, plus an amount not to exceed the necessary living expenses incurred by the officer that are necessitated by training requiring that he or she be away from his or her residence overnight.

(b) For the maintenance and administration of law enforcement officer testing and certification provided for by this act.

(2) If the money in the fund to be appropriated by the legislature for the training and living expenses described in subsection (1) are insufficient to allocate the amount for training and living purposes, the amount shall be reduced proportionately.

(3) An allocation shall not be made from the fund under this section to a training agency or to a city, county, township, or village or agency of the state that has not, throughout the period covered by the allocation, adhered to the standards established by the commission as applicable to either training or to personnel recruited or trained by the training agency, city, county, township, or village or agency of the state during that period.

(4) Expenditures from the fund to be appropriated by the legislature for law enforcement officer testing and certification described in subsection (1) shall not exceed the revenue generated from fees collected pursuant to section 11(1)(i) and (j).

History: 1965, Act 203, Eff. Jan. 1, 1966;—Am. 1976, Act 422, Imd. Eff. Jan. 11, 1977;—Am. 1998, Act 237, Imd. Eff. July 3, 1998 .

Compiler's note: For transfer of statutory authority, powers, duties, functions, and responsibilities of the Michigan justice training commission, the Michigan justice training fund, the commission on law enforcement standards, and the law enforcement officers training fund to the new Michigan commission on law enforcement standards by type III transfer, see E.R.O. No. 2001-2, compiled at MCL 28.621 of the Michigan compiled laws.

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28.615 Application for reimbursement; contents.

Sec. 15. A training agency, city, county, township, or village or state agency that desires to receive reimbursement pursuant to section 14 shall apply to the commission for the reimbursement. The application shall contain information requested by the commission.

History: 1965, Act 203, Eff. Jan. 1, 1966;—Am. 1976, Act 422, Imd. Eff. Jan. 11, 1977;—Am. 1998, Act 237, Imd. Eff. July 3, 1998
.

Compiler's note: For transfer of statutory authority, powers, duties, functions, and responsibilities of the Michigan justice training commission, the Michigan justice training fund, the commission on law enforcement standards, and the law enforcement officers training fund to the new Michigan commission on law enforcement standards by type III transfer, see E.R.O. No. 2001-2, compiled at MCL 28.621 of the Michigan compiled laws.

28.616 Effective date.

Sec. 16. This act shall take effect on January 1, 1966.

History: 1965, Act 203, Eff. Jan. 1, 1966.

Compiler's note: For transfer of statutory authority, powers, duties, functions, and responsibilities of the Michigan justice training commission, the Michigan justice training fund, the commission on law enforcement standards, and the law enforcement officers training fund to the new Michigan commission on law enforcement standards by type III transfer, see E.R.O. No. 2001-2, compiled at MCL 28.621 of the Michigan compiled laws.

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EXECUTIVE REORGANIZATION ORDER
E.R.O. No. 2001-2

28.621 Creation of new Michigan commission on law enforcement standards within department of state police as type I agency; transfer of powers and duties of Michigan justice training commission, Michigan justice training fund, and commission on law enforcement standards and law enforcement officers training fund to the new Michigan commission on law enforcement standards by type III transfer.

WHEREAS, Article V, Section 1, of the Constitution of the state of Michigan of 1963 vests the executive power in the Governor; and

WHEREAS, Article V, Section 2, of the Constitution of the State of Michigan of 1963 empowers the Governor to make changes in the organization of the Executive Branch or in the assignment of functions among its units which he considers necessary for efficient administration; and

WHEREAS, the Michigan Justice Training Commission and the Michigan Justice Training Fund were created within the Department of Management and Budget by Act No. 302 of the Public Acts of 1982, as amended, being Section 18.421 et seq. of the Michigan Compiled Laws; and subsequently transferred to the Department of State Police by Executive Order 1993-11, being Section 18.431 of the Michigan Compiled Laws; and

WHEREAS, the Michigan Law Enforcement Officers Training Council (later renamed the Commission on Law Enforcement Standards by Act No. 237 of the Public Acts of 1998, which amended Section 28.601 et seq. of the Michigan Compiled Laws) and the Law Enforcement Officers Training Fund were created under Act No. 203 of the Public Acts of 1965, as amended, being section 28.601 et seq. of the Michigan Compiled Laws; and subsequently transferred by a Type I transfer to the Department of State Police by Act No. 407 of the Public Acts of 1965, being Section 16.257 of the Michigan Compiled Laws; and

WHEREAS, the powers, functions, duties and responsibilities assigned to the Michigan Justice Training Commission, the Michigan Justice Training Fund, the Commission on Law Enforcement Standards, and the Law Enforcement Officers Training Fund can be more effectively carried out by a new Michigan Commission on Law Enforcement Standards; and

WHEREAS, it is necessary in the interests of efficient administration and effectiveness of government to effect changes in the organization of the Executive Branch of government.

NOW, THEREFORE, I, John Engler, Governor of the State of Michigan, pursuant to the powers vested in me by the Constitution of the State of Michigan of 1963 and the laws of the State of Michigan, do hereby order the following:

I. NEW MICHIGAN COMMISSION ON LAW ENFORCEMENT STANDARDS

A. The new Michigan Commission on Law Enforcement Standards is hereby created as a Type I agency within the Department of State Police.

B. All the statutory authority, powers, duties, functions and responsibilities of the Michigan Justice Training Commission, the Michigan Justice Training Fund, the Commission on Law Enforcement Standards and the Law Enforcement Officers Training Fund including those involving rulemaking, grant awards and annual distributions and including, but not limited to, the statutory authority, powers, duties, functions and responsibilities set forth in:

1. The Commission on Law Enforcement Standards Act, Act No. 203 of the Public Acts of 1965, as amended, being Section 28.601 et seq. of the Michigan Compiled Laws;

2. The Michigan Justice Training Commission and Michigan Justice Training Fund Act, Act No. 302 of the Public Acts of 1982, as amended, being Section 18.421 et seq. of the Michigan Compiled Laws;

are hereby transferred to the new Michigan Commission on Law Enforcement Standards by a Type III transfer, as defined by Section 3 of Act No. 380 of the Public Acts of 1965, as amended, being Section 16.103 of the Michigan Compiled Laws.

C. The Michigan Commission on Law Enforcement Standards shall consist of 17 members, including all of the following:

1. The Attorney General, or his or her designee from within the Department of Attorney General.

2. The Director of the Department of State Police, or his or her designee who is a police officer within the Department of State Police.

3. The chief of a police department located in a city with a population of more than 750,000, or his or her designee who is a command officer within that department.

4. Fourteen individuals appointed by the Governor, subject to disapproval by the Michigan Senate under Section 6 of Article V of the Michigan Constitution of 1963, including all of the following:

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a. Three individuals selected from a list of not less than 9 active voting members of the Michigan Association of Chiefs of Police nominated by the Michigan Association of Chiefs of Police.

b. Three individuals selected from a list of not less than 9 elected county sheriffs nominated by the Michigan Sheriffs' Association.

c. One individual selected from a list of not less than 3 prosecuting attorneys nominated by the Prosecuting Attorneys Association of Michigan.

d. One individual selected from a list of not less than 3 criminal defense attorneys nominated by the Criminal Defense Attorneys of Michigan.

e. One individual selected from a list of not less than 3 individuals nominated by the Michigan State Police Troopers Association.

f. One individual selected from a list of not less than 3 individuals nominated by the Michigan Chapter of the Fraternal Order of Police.

g. One individual selected from a list of not less than 3 individuals submitted by the Police Officers Association of Michigan.

h. One individual selected from a list of not less than 3 individuals nominated by a police association representing police officers employed by a police agency employing more than 15 percent of the police officers in this state.

i. One individual selected from a list of not less than 3 individuals nominated by the Police Officers Labor Council of Michigan.

j. One individual selected from a list of not less than 3 individuals nominated by the Michigan Association of Police.

5. The Governor may appoint any individual meeting the membership requirements of the groups or organizations listed under Section I.C.4.a through I.C.4.j if an organization required to submit a list fails to submit a complete list of qualified nominees at least 30 days prior to a vacancy created by the expiration of a term, or not less than 30 days after the effective date of any other vacancy.

6. An individual appointed under Section I.C.4.a to I.C.4.j shall serve as a Commission member only while serving as a member of the organization that nominated the individual.

7. Members of the Commission appointed or reappointed under Section I.C.4.a to I.C.4.h after December 31, 2008 shall be appointed for a term of four years.

8. Of the members of the Commission initially appointed by the Governor under Sections I.C.4.i and I.C.4.j, one member shall be appointed for a term expiring on November 1, 2009, and one member shall be appointed for a term expiring on November 1, 2010. After the initial appointments, members of the Commission appointed under Sections I.C.4.i and I.C.4.j shall be appointed for a term of four years.

9. A vacancy on the Commission occurring other than by expiration of a term shall be filled by the Governor in the same manner as the original appointment for the balance of the unexpired term.

D. The new Michigan Commission on Law Enforcement Standards, in addition to exercising the statutory authority, powers, duties, functions and responsibilities transferred to it by this order, shall focus its activities in order to accomplish the following objectives involving law enforcement organizations and officers:

1. Increase professionalism;

2. Increase the number of law enforcement organizations that offer formal in-service training and increase the number of law enforcement officers who receive formal in-service training;

3. Institute law enforcement in-service training standards applicable to all law enforcement in-service training in Michigan;

4. Implement a web-based information system that will allow the Commission to accomplish its goals and communicate with Michigan law enforcement organizations in a more efficient manner, and;

5. Ensure that grants awarded by the Commission to Michigan law enforcement organizations advance the objectives listed in subparagraphs D.1. through D.3.

II. MISCELLANEOUS

A. The Director of the Department of State Police shall provide executive direction and supervision for the implementation of all transfers of authority made under this Order.

B. The Executive Director of the new Michigan Commission on Law Enforcement Standards shall administer the assigned functions transferred by this Order in such ways as to promote efficient administration and shall make internal organizational changes as may be administratively necessary to complete the realignment of responsibilities prescribed by this Order.

C. The Director of the Department of State Police and the Executive Director of the new Michigan Commission on Law Enforcement Standards shall immediately initiate coordination to facilitate the transfer and shall develop a memorandum of record identifying any pending settlements, issues of compliance with applicable federal and State laws and regulations, or obligations to be resolved by the Michigan Justice

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Training Commission, the Michigan Justice Training Fund, the Commission on Law Enforcement Standards and the Law Enforcement Officers Training Fund.

D. All records, personnel, property and unexpended balances of appropriations, allocations and other funds used, held, employed, available or to be made available to the Michigan Justice Training Commission, the Michigan Justice Training Fund, the Commission on Law Enforcement Standards and the Law Enforcement Officers Training Fund for the activities, powers, duties, functions and responsibilities transferred by this Order are hereby transferred to the new Michigan Commission on Law Enforcement Standards.

E. The State Budget Director shall determine and authorize the most efficient manner possible for handling financial transactions and records in the state's financial management system for the remainder of the fiscal year.

F. All rules, orders, contracts and agreements relating to the assigned functions lawfully adopted prior to the effective date of this Order shall continue to be effective until revised, amended or repealed.

G. Any suit, action or other proceeding lawfully commenced by, against or before any entity affected by this Order shall not abate by reason of the taking effect of this Order. Any suit, action or other proceeding may be maintained by, against or before the appropriate successor of any entity affected by this Order.

H. The invalidity of any portion of this Order shall not affect the validity of the remainder thereof.

In fulfillment of the requirement of Article V, Section 2, of the Constitution of the state of Michigan of 1963, the provisions of this Executive Order shall become effective November 1, 2001.

History: 2001, E.R.O. No. 2001-2, Eff. Nov. 1, 2001;—Am. 2008, E.R.O. No. 2008-3, Eff. Dec. 28, 2008.

Compiler's note: Section I.C. of MCL 28.261, as enacted by E.R.O. No. 2001-2, was amended by E.R.O. No. 2008-3. The text of I.C. reflects this amendment; all other text remains as originally enacted.

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PUBLIC SAFETY OFFICERS BENEFIT ACT
Act 46 of 2004

AN ACT to provide compensation to dependents of public safety officers who are killed or who are permanently and totally disabled in the line of duty; to create the public safety officers benefit fund; to prescribe the duties and responsibilities of certain state officers; and to make an appropriation.

History: 2004, Act 46, Eff. Oct. 1, 2003.

Compiler's note: Enacting section 1 of Act 46 of 2004 provides
"This act is retroactive and is effective October 1, 2003."

The People of the State of Michigan enact:

28.631 Short title.

Sec. 1. This act shall be known as the "public safety officers benefit act".

History: 2004, Act 46, Imd. Eff. Oct. 1, 2003.

Compiler's note: Enacting section 1 of Act 46 of 2004 provides:
"This act is retroactive and is effective October 1, 2003."

28.632 Definitions.

Sec. 2. As used in this act:

(a) "Commission" means the commission on law enforcement standards created under the commission on law enforcement standards act, 1965 PA 203, MCL 28.601 to 28.616.

(b) "Dependent" means any individual who was substantially reliant for support upon the income of the deceased public safety officer.

(c) "Direct and proximate" means that the antecedent event is a substantial factor in the result.

(d) "Firefighter" means a regularly employed member of a fire department of a city, county, township, village, state university, or community college or a member of the department of natural resources who is employed to fight fires. Firefighter includes a volunteer member of a fire department.

(e) "Law enforcement officer" means an individual involved in crime and juvenile delinquency control or reduction or enforcement of the criminal law. Law enforcement officer includes police, corrections, probation, parole, bailiffs, or other similar court officers.

(f) "Line of duty" means either of the following:

(*i*) Any action which an officer whose primary function is crime control or reduction, enforcement of the criminal law, or suppression of fires is obligated or authorized by rule, regulations, condition of employment or service, or law to perform, including those social, ceremonial, or athletic functions to which the officer is assigned, or for which the officer is compensated, by the public agency he or she serves. For other officers, line of duty means any action the officer is so obligated or authorized to perform in the course or controlling or reducing crime, enforcing the criminal law, or suppressing fires.

(*ii*) Any action which an officially recognized or designated public employee member of a rescue squad or ambulance crew is obligated or authorized by rule, regulation, condition of employment or service, or law to perform.

(g) "Member of a rescue squad or ambulance crew" means an officially recognized or designated employee or volunteer member of a rescue squad or ambulance crew.

(h) "Permanent and total disability" means medically determinable consequences of a catastrophic, line-of-duty injury that permanently prevent a former public safety officer from performing any gainful work.

(i) "Public safety officer" means any individual serving a public agency in an official capacity, with or without compensation, as a law enforcement officer, firefighter, rescue squad member, or ambulance crew member.

(j) "Surviving spouse" means the husband or wife of the deceased officer at the time of the officer's death, and includes a spouse living apart from the officer at the time of the officer's death for any reason.

History: 2004, Act 46, Imd. Eff. Oct. 1, 2003.

Compiler's note: Enacting section 1 of Act 46 of 2004 provides:
"This act is retroactive and is effective October 1, 2003."

28.633 Public safety officers benefit fund; creation; disposition and investment of funds; lapse; expenditures; rules.

Sec. 3. (1) The public safety officers benefit fund is created within the state treasury.

(2) The state treasurer may receive money or other assets from any source for deposit into the fund. The

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state treasurer shall direct the investment of the fund. The state treasurer shall credit to the fund interest and earnings from fund investments.

(3) Money in the fund at the close of the fiscal year shall remain in the fund and shall not lapse to the general fund.

(4) The commission shall expend money from the fund, upon appropriation, only to carry out the purposes of this act.

(5) The commission shall promulgate rules pursuant to the administrative procedures act of 1969, 1969 PA 306, MCL 24.201 to 24.328, that prescribe standards and rules for the distribution of benefits commensurate with the purpose of this act.

History: 2004, Act 46, Imd. Eff. Oct. 1, 2003.

Compiler's note: Enacting section 1 of Act 46 of 2004 provides:
"This act is retroactive and is effective October 1, 2003."

28.634 Death or disability of public safety officer; benefit; amount; additional benefit.

Sec. 4. (1) If a public safety officer dies or is permanently and totally disabled as the direct and proximate result of a personal injury sustained in the line of duty, the state shall pay a benefit of $25,000.00 to 1 of the following:

(a) If the deceased public safety officer leaves a surviving spouse, to that surviving spouse.

(b) If the deceased public safety officer does not leave a surviving spouse, to his or her dependents.

(c) If the public safety officer does not leave a surviving spouse or any surviving dependents, payment shall be made to the estate of the deceased public safety officer.

(d) If the public safety officer is permanently and totally disabled, to the spouse, but if there is no spouse, to the dependents, and if there are no dependents, then to the entity providing care to the permanently and totally disabled public safety officer.

(2) The benefit shall be paid in addition to any other benefit that the beneficiary receives due to the death of the public safety officer.

History: 2004, Act 46, Imd. Eff. Oct. 1, 2003.

Compiler's note: Enacting section 1 of Act 46 of 2004 provides:
"This act is retroactive and is effective October 1, 2003."

28.635 Interim benefit.

Sec. 5. (1) If it appears to the commission that a benefit will be paid under section 4, and if a showing of need is made, the commission may make an interim benefit payment of not more than $3,000.00 to the person or entity who would be entitled to receive the full benefit payment.

(2) The amount of an interim benefit payment shall be deducted from the amount of any final benefit paid.

(3) If an interim benefit is paid under this section, but a final benefit in that case is not paid because the death or the permanent and total disability of the public safety officer is determined not to be covered under section 4, the recipient of the interim benefit payment is liable for repayment of that benefit payment. However, the state may waive its right to repayment of all or part of the interim benefit payment if substantial hardship would result to the recipient.

History: 2004, Act 46, Imd. Eff. Oct. 1, 2003.

Compiler's note: Enacting section 1 of Act 46 of 2004 provides:
"This act is retroactive and is effective October 1, 2003."

28.636 Benefit payment; prohibitions.

Sec. 6. A benefit payment shall not be made under this act if any of the following apply:

(a) The personal injury that resulted in death or permanent and total disability was caused by the intentional misconduct of the public safety officer or by his or her intent to bring about the injury.

(b) The public safety officer was voluntarily intoxicated at the time the personal injury occurred.

(c) The public safety officer was performing his or her duties in a grossly negligent manner at the time the personal injury occurred.

(d) The injury was the direct and proximate result of the actions of an individual to whom payment would be made under this act.

History: 2004, Act 46, Imd. Eff. Oct. 1, 2003.

Compiler's note: Enacting section 1 of Act 46 of 2004 provides:
"This act is retroactive and is effective October 1, 2003."

28.637 Appropriation; amount.

Sec. 7. One hundred twenty-five thousand dollars is hereby appropriated from the general fund to the

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public safety officers benefit fund for fiscal year 2003-2004 to pay for the benefits prescribed in this act.

History: 2004, Act 46, Imd. Eff. Oct. 1, 2003.

Compiler's note: Enacting section 1 of Act 46 of 2004 provides:
"This act is retroactive and is effective October 1, 2003."

28.638 Payment of benefits; condition.

Sec. 8. The payment of benefits under this act is subject to an appropriation by the legislature of money necessary to make the payment.

History: 2004, Act 46, Imd. Eff. Oct. 1, 2003.

Compiler's note: Enacting section 1 of Act 46 of 2004 provides:
"This act is retroactive and is effective October 1, 2003."

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****** Act 340 OF 1976 EXPIRED DECEMBER 31, 1982, PURSUANT TO § 28.656, AS AMENDED BY ACT 20 OF 1979. ON DECEMBER 31, 1982, § 28.656 WAS AMENDED BY ACT 494 OF 1982, EFFECTIVE MARCH 30, 1983. ******

MUNICIPAL FIRE INSURANCE RATE CLASSIFICATION ADVISORY BOARD
Act 340 of 1976

AN ACT to create a municipal fire service classification board; to prescribe the powers and duties of certain state agencies and officials; to provide for the evaluation of fire service delivery systems; to establish a fire service classification scale; to provide recommendations for the improvement of the capabilities of fire service delivery systems to improve life safety and to reduce fire losses for the citizens of this state; to provide for the promulgation of rules; and to provide for the administration of this act.

History: 1976, Act 340, Imd. Eff. Dec. 15, 1976;—Am. 1982, Act 494, Eff. Mar. 30, 1983.

The People of the State of Michigan enact:

****** Act 340 of 1976 EXPIRED DECEMBER 31, 1982, PURSUANT TO § 28.656. ON DECEMBER 31, 1982, THIS SECTION WAS AMENDED BY ACT 494 OF 1982, EFFECTIVE MARCH 30, 1983 ******

28.651 Definitions.

Sec. 1. As used in this act:

(a) "Board" means the municipal fire service classification board created by section 2.

(b) "Fire service classification scale" means the criteria by which a fire service delivery system is evaluated.

(c) "Fire service delivery system" means all the equipment, personnel, procedures, and resources which are utilized in the prevention and suppression of fire.

(d) "Grade" means the fire protection level which a fire service delivery system achieves on the fire service classification scale.

(e) "Municipality" means a city, village, township, or county.

(f) "Organized fire department" means an organization or department which provides a fire service delivery system within a municipality and is a fire department of a municipality or is a fire service delivery system designated by a municipality pursuant to a contract with that municipality. Organized fire department includes a department of county employees who are responsible for providing a fire service delivery system for an airport operated by the county or an agency of the county.

History: 1976, Act 340, Imd. Eff. Dec. 15, 1976;—Am. 1982, Act 494, Eff. Mar. 30, 1983.

Compiler's note: Act 340 of 1976 expired December 31, 1982, pursuant to MCL 28.656, as amended by Act 20 of 1979. On December 31, 1982, this section was amended by Act 494 of 1982, effective March 30, 1983.

****** Act 340 of 1976 EXPIRED DECEMBER 31, 1982, PURSUANT TO § 28.656. ON DECEMBER 31, 1982, THIS SECTION WAS AMENDED BY ACT 494 OF 1982, EFFECTIVE MARCH 30, 1983 ******

28.652 Municipal fire service classification board; creation; appointment, qualifications, and terms of members; vacancy; election of chairperson; meetings; compensation and expenses; staff; quorum; passing on question, action, or business; conducting business at public meeting; notice; minutes; record; availability of writing to public; rules.

Sec. 2. (1) There is created within the fire marshal division of the department of state police a municipal fire service classification board. The board shall have 11 members. One member shall be the director of the department of state police, or his or her designated representative. One member shall be the director of public health or his or her designated representative. One member shall be appointed by the governor upon the recommendation of the Michigan fire chiefs association. One member shall be appointed by the governor upon the recommendation of the Michigan fire inspectors society. One member shall be appointed by the governor upon the recommendation of the Michigan state fireman's association. One member shall be appointed by the governor upon the recommendation of the Michigan state fire fighter's union. One member shall be appointed by the governor to represent incorporated cities and villages. One member shall be appointed by the governor to represent township government. One member shall be appointed by the governor to represent the general public, and 2 members shall be appointed by the governor to represent the fire insurance industry. At least 1 of the members of the board shall be a member of a rural volunteer fire department. All appointments by the governor shall be by and with the advice and consent of the senate.

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Appointed members shall be appointed for terms of 4 years. A vacancy on the board shall be filled in the same manner as the original appointment for the remainder of the unexpired term.

(2) Annually the board shall elect a chairperson from its membership. The board shall meet not less than 4 times each year. Special meetings may be called by the chairperson, or upon written request of not less than 5 board members. Meetings shall be held at a location designated by the chairperson.

(3) The per diem compensation for members of the board and the schedule for reimbursement of expenses shall be established annually by the legislature.

(4) The board may employ a staff to assist it in the performance of its duties, subject to civil service rules and within fiscal restraints.

(5) A majority of the members appointed to and serving on the board constitutes a quorum. A majority vote of the members voting shall be required to pass upon any question, action, or business of the board except that a hearing of a contested case may be conducted in the presence of 3 board members. The 3 board members, after hearing the facts and considering the evidence and testimony, shall recommend to the board action to be taken by the board.

(6) The business performed by the board shall be conducted at a public meeting of the board held in compliance with Act No. 267 of the Public Acts of 1976, as amended, being sections 15.261 to 15.275 of the Michigan Compiled Laws. Public notice of the time, date, and place of the meeting shall be given in the manner required by Act No. 267 of the Public Acts of 1976, as amended.

(7) The board shall keep minutes of its proceedings, showing the vote of each member on each proposition or question, or indicating if a member is absent or fails to vote. A record of board action and business shall be made and maintained.

(8) A writing prepared, owned, used, in the possession of, or retained by the board in the performance of an official function shall be made available to the public in compliance with Act No. 442 of the Public Acts of 1976, as amended, being sections 15.231 to 15.246 of the Michigan Compiled Laws.

(9) Rules promulgated under this act shall be promulgated pursuant to Act No. 306 of the Public Acts of 1969, as amended, being sections 24.201 to 24.315 of the Michigan Compiled Laws.

History: 1976, Act 340, Imd. Eff. Dec. 15, 1976;—Am. 1982, Act 494, Eff. Mar. 30, 1983.

Compiler's note: Act 340 of 1976 expired December 31, 1982, pursuant to MCL 28.656, as amended by Act 20 of 1979. On December 31, 1982, this section was amended by Act 494 of 1982, effective March 30, 1983.

****** Act 340 of 1976 EXPIRED DECEMBER 31, 1982, PURSUANT TO § 28.656. ON DECEMBER 31, 1982, THIS SECTION WAS AMENDED BY ACT 494 OF 1982, EFFECTIVE MARCH 30, 1983 ******

28.653 Duties of board.

Sec. 3. The board shall:

(a) Submit rules for public hearing within 2 years after the effective date of section 7 which set forth a method of evaluating fire service delivery systems and establish a fire service classification scale. The fire service classification scale may include the following factors:

(*i*) Available water supply.

(*ii*) Fire prevention programs and activities.

(*iii*) Organized fire department administration.

(*iv*) Fire fighting equipment and apparatus.

(*v*) Organized fire department training.

(*vi*) Fire losses.

(*vii*) Fire prevention code and fire prevention code enforcement.

(*viii*) Fire incident reporting and fire investigation.

(*ix*) Fire alarm systems.

(*x*) Building construction code and building construction code enforcement.

(*xi*) Communications.

(*xii*) Personnel.

(*xiii*) Mutual aid.

(*xiv*) Fire suppression systems.

(*xv*) Other fire service delivery technology.

(b) Review any other fire service classification scale upon written request by a municipality.

(c) At least annually, present to the legislature and the commissioner of insurance a report of the board's activities and recommendations under this act.

(d) Develop a system within 5 years after the effective date of this amendatory act which will enable the board to evaluate the extent of compliance with Act No. 207 of the Public Acts of 1941, as amended, being

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sections 29.1 to 29.25 of the Michigan Compiled Laws, of each building inspected under Act No. 207 of the Public Acts of 1941, as amended. The state fire marshal shall provide the board with current inspection results to assist the board in the development of this system.

History: 1976, Act 340, Imd. Eff. Dec. 15, 1976;—Am. 1982, Act 494, Eff. Mar. 30, 1983.

Compiler's note: Act 340 of 1976 expired December 31, 1982, pursuant to MCL 28.656, as amended by Act 20 of 1979. On December 31, 1982, this section was amended by Act 494 of 1982, effective March 30, 1983.

28.654 Repealed. 1982, Act 494, Eff. Mar. 30, 1983.

Compiler's note: The repealed section pertained to risk classification systems.

****** Act 340 of 1976 EXPIRED DECEMBER 31, 1982, PURSUANT TO § 28.656. ON DECEMBER 31, 1982, THIS SECTION WAS AMENDED BY ACT 494 OF 1982, EFFECTIVE MARCH 30, 1983 ******

28.655 Utilization of fire service classification system of insurer.

Sec. 5. An insurer authorized to write fire insurance within this state may utilize the fire service classification system promulgated by the board.

History: 1976, Act 340, Imd. Eff. Dec. 15, 1976;—Am. 1982, Act 494, Eff. Mar. 30, 1983.

Compiler's note: Act 340 of 1976 expired December 31, 1982, pursuant to MCL 28.656, as amended by Act 20 of 1979. On December 31, 1982, this section was amended by Act 494 of 1982, effective March 30, 1983.

****** Act 340 of 1976 EXPIRED DECEMBER 31, 1982, PURSUANT TO § 28.656. ON DECEMBER 31, 1982, THIS SECTION WAS AMENDED BY ACT 494 OF 1982, EFFECTIVE MARCH 30, 1983 ******

28.656 Fire service delivery system; review; grade; information; assistance to municipality; alteration of system; oath; fee schedule; method of assessment.

Sec. 6. (1) Each municipality's fire service delivery system shall be reviewed by the board every 8 years or as requested by the municipality and a grade established in accordance with the fire service classification scale promulgated by the board pursuant to section 3.

(2) The first review of each municipality's fire service delivery system shall be within 7 years after the effective date of section 7.

(3) Upon request by the board, each municipality shall furnish information to the board on the municipality's fire service delivery system. Information furnished pursuant to this section shall be in the form prescribed by the board.

(4) The board shall within 90 days of reviewing a fire service delivery system, establish the grade for the fire service delivery system using the fire service classification scale.

(5) Upon request by a municipality, the board shall provide assistance to the municipality for the purpose of improving the capabilities of the municipality's fire service delivery system toward improved life safety and reduced fire losses.

(6) If a fire service delivery system of a municipality is altered, and that alteration would change the established grade of the fire service delivery system, the municipality shall provide details of the alterations on forms prescribed by the board.

(7) A person designated by a municipality to submit information to the board regarding a fire service delivery system shall sign a written oath, on a form prescribed by the board, swearing that the information submitted is factual and accurate.

(8) The board shall determine a fee schedule and method of assessment to be charged a municipality for the assistance provided to improve the fire service delivery system.

History: 1976, Act 340, Imd. Eff. Dec. 15, 1976;—Am. 1979, Act 20, Imd. Eff. May 30, 1979;—Am. 1982, Act 494, Eff. Mar. 30, 1983.

Compiler's note: Act 340 of 1976 expired December 31, 1982, pursuant to MCL 28.656, as amended by Act 20 of 1979. On December 31, 1982, this section was amended by Act 494 of 1982, effective March 30, 1983.

****** ACT 340 OF 1976 EXPIRED DECEMBER 31, 1982, PURSUANT TO § 28.656. ON DECEMBER 31, 1982, THIS SECTION WAS ADDED BY ACT 494 of 1982, EFFECTIVE MARCH 30, 1983 ******

28.657 Application of rule; request for variation; hearing; decision.

Sec. 7. (1) A municipality or insurer may request a variation of the application of a rule promulgated pursuant to this act by written application to the board.

(2) The entire board shall act as a hearing body in accordance with Act No. 306 of the Public Acts of 1969, as amended, being sections 24.201 to 24.315 of the Michigan Compiled Laws, to review and render decisions

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on the recommendations submitted to the board pursuant to section 2(5) regarding a contested case involving the application of a rule promulgated pursuant to this act to any municipality rated by the board as provided in section 6. After a hearing, the board may vary the application of the contested rule if the enforcement of the rule without the variation would do manifest injustice and would be contrary to the spirit and purpose of the rule or the public interest.

(3) A decision of the board to vary the application of a rule shall specify in what manner the variation is made, the conditions upon which it is made, and the reasons for the variation.

History: Add. 1982, Act 494, Eff. Mar. 30, 1983.

Compiler's note: Act 340 of 1976 expired December 31, 1982, pursuant to MCL 28.656, as amended by Act 20 of 1979. On December 31, 1982, this section was added by Act 494 of 1982, effective March 30, 1983.

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EXECUTIVE REORGANIZATION ORDER
E.R.O. No. 1992-8

28.701 Transfer of powers and duties of the tax fraud division of the department of treasury to the department of state police by type III transfer.

WHEREAS, Article V, Section 2, of the Constitution of the State of Michigan of 1963 empowers the Governor to make changes in the organization of the Executive Branch or in the assignment of functions among its units which he considers necessary for efficient administration; and

WHEREAS, the Tax Fraud Division is currently located in the Department of Treasury; and

WHEREAS, the functions, duties and responsibilities assigned to the Tax Fraud Division can be more effectively organized and carried out under the supervision and direction of the head of the Department of State Police; and

WHEREAS, it is necessary in the interests of efficient administration and effectiveness of government to effect changes in the organization of the Executive Branch of government.

NOW, THEREFORE, I, John Engler, Governor of the State of Michigan, pursuant to the powers vested in me by the Constitution of the State of Michigan of 1963 and the laws of the State of Michigan, do hereby order the following:

(1) All the authority, powers, duties, functions and responsibilities, including the functions of budgeting, procurement and management-related functions, of the Tax Fraud Division are hereby transferred from the Department of Treasury to the Department of State Police by a Type III transfer, as defined by Section 3 of Act No. 380 of the Public Acts of 1965, as amended, being Section 16.103 of the Michigan Compiled Laws.

(2) The Director of the Department of State Police may continue the current organization of the Tax Fraud Division or may administer the assigned functions in other ways to promote efficient administration.

(3) The Director of the Department of State Police shall provide executive direction and supervision for the implementation of the transfer. The assigned functions shall be administered under the direction and supervision of the Director of the Department of State Police and all prescribed functions of rule making, licensing and registration, including the prescription of rules, regulations, standards and adjudications, shall be transferred to the Director of the Department of State Police.

(4) All records, personnel, property and unexpended balances of appropriations, allocations and other funds used, held, employed, available or to be made available to the Tax Fraud Division for the activities transferred to the Department of State Police by this Order are hereby transferred to the Department of State Police.

(5) The Director of the Department of State Police shall make internal organizational changes as may be administratively necessary to complete the realignment of responsibilities prescribed by this Order.

(6) The State Treasurer and the Director of the Department of State Police shall immediately initiate coordination to facilitate the transfer and develop a memorandum of record identifying any pending settlements, issues of compliance with applicable federal and State laws and regulations, or other obligations to be resolved by the Tax Fraud Division.

(7) All rules, orders, contracts and agreements relating to the assigned functions lawfully adopted prior to the effective date of this Order shall continue to be effective until revised, amended or repealed.

(8) Any suit, action or other proceeding lawfully commenced by, against or before any entity affected by this Order shall not abate by reason of the taking effect of this Order. Any suit, action or other proceeding may be maintained by, against or before the appropriate successor of any entity affected by this Order.

In fulfillment of the requirement of Article V, Section 2, of the constitution of the State of Michigan of 1963, the provisions of this Order shall become effective 60 days from January 13, 1993.

History: 1992 E.R.O. No. 1992-8, Eff. Mar. 15, 1993.

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EXECUTIVE REORGANIZATION ORDER
E.R.O. No. 1993-15

28.702 Transfer of powers and duties of the Michigan emergency management advisory council to the department of state police by a type III transfer and abolishment of the Michigan emergency management advisory council.

WHEREAS, Article V, Section 2, of the Constitution of the State of Michigan of 1963 empowers the Governor to make changes in the organization of the Executive Branch or in the assignment of functions among its units which he considers necessary for efficient administration; and

WHEREAS, the Michigan Emergency Management Advisory Council was created by Act No. 390 of the Public Acts of 1976, being Sections 30.401 et seq. of the Michigan Compiled Laws, in the Department of State Police; and

WHEREAS, the functions, duties and responsibilities assigned to the Michigan Emergency Management Advisory Council can be more effectively organized and carried out under the supervision and direction of the head of the Department of State Police; and

WHEREAS, it is necessary in the interests of efficient administration and effectiveness of government to effect changes in the organization of the Executive Branch of government.

NOW, THEREFORE, I, John Engler, Governor of the State of Michigan, pursuant to the powers vested in me by the Constitution of the State of Michigan of 1963 and the laws of the State of Michigan, do hereby order the following:

1. All the statutory authority, powers, duties, functions and responsibilities of the Michigan Emergency Management Advisory Council are hereby transferred to the Director of the Department of State Police, as head of the Department of State Police, by a Type III transfer, as defined by Section 3 of Act 380 of the Public Acts of 1965, as amended, being Section 16.103 of the Michigan Compiled Laws, and the Michigan Emergency Management Advisory Council is hereby abolished.

2. The Director of the Department of State Police shall administer the assigned functions to promote efficient administration.

3. The Director of the Department of State Police shall provide executive direction and supervision for the implementation of the transfer. The assigned functions shall be administered under the direction and supervision of the Director of the Department of State Police and all prescribed functions shall be transferred to the Director of the Department of State Police.

4. All records, personnel, property and unexpended balances of appropriations, allocations and other funds used, held, employed, available or to be made available to the Michigan Emergency Management Advisory Council for the activities transferred to the Director of the Department of State Police by this Order are hereby transferred to the Department of State Police.

5. The Director of the Department of State Police shall make internal organizational changes as may be administratively necessary to complete the realignment of responsibilities prescribed by this Order.

6. All rules, orders, contracts and agreements relating to the assigned functions lawfully adopted prior to the effective date of this Order shall continue to be effective until revised, amended or repealed.

7. Any suit, action or other proceeding lawfully commenced by, against or before any entity affected by this Order shall not abate by reason of the taking effect of this Order. Any suit, action or other proceeding may be maintained by, against or before the appropriate successor of any entity affected by this Order.

In fulfillment of the requirement of Article V, Section 2, of the Constitution of the State of Michigan of 1963, the provisions of this Executive Order shall become effective 60 days after filing.

History: 1993 E.R.O. No. 1993-15, Eff. Feb. 21, 1994.

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SEX OFFENDERS REGISTRATION ACT
Act 295 of 1994

AN ACT to require persons convicted of certain offenses to register; to prohibit certain individuals from engaging in certain activities within a student safety zone; to prescribe the powers and duties of certain departments and agencies in connection with that registration; and to prescribe fees, penalties, and sanctions.

History: 1994, Act 295, Eff. Oct. 1, 1995;—Am. 2004, Act 237, Eff. Oct. 16, 2004;—Am. 2005, Act 121, Eff. Jan. 1, 2006;—Am. 2005, Act 127, Eff. Jan. 1, 2006.

The People of the State of Michigan enact:

  I
GENERAL

28.721 Short title.

Sec. 1. This act shall be known and may be cited as the “sex offenders registration act”.

History: 1994, Act 295, Eff. Oct. 1, 1995.

28.721a Legislative declarations; determination; intent.

Sec. 1a. The legislature declares that the sex offenders registration act was enacted pursuant to the legislature's exercise of the police power of the state with the intent to better assist law enforcement officers and the people of this state in preventing and protecting against the commission of future criminal sexual acts by convicted sex offenders. The legislature has determined that a person who has been convicted of committing an offense covered by this act poses a potential serious menace and danger to the health, safety, morals, and welfare of the people, and particularly the children, of this state. The registration requirements of this act are intended to provide law enforcement and the people of this state with an appropriate, comprehensive, and effective means to monitor those persons who pose such a potential danger.

History: Add. 2002, Act 542, Eff. Oct. 1, 2002.

28.722 Definitions.

Sec. 2. As used in this act:

(a) "Convicted" means 1 of the following:

(*i*) Having a judgment of conviction or a probation order entered in any court having jurisdiction over criminal offenses, including, but not limited to, a tribal court or a military court, and including a conviction subsequently set aside under 1965 PA 213, MCL 780.621 to 780.624.

(*ii*) Either of the following:

(A) Being assigned to youthful trainee status under sections 11 to 15 of chapter II of the code of criminal procedure, 1927 PA 175, MCL 762.11 to 762.15, before October 1, 2004.

(B) Being assigned to youthful trainee status under sections 11 to 15 of chapter II of the code of criminal procedure, 1927 PA 175, MCL 762.11 to 762.15, on or after October 1, 2004 if the individual's status of youthful trainee is revoked and an adjudication of guilt is entered.

(*iii*) Having an order of disposition entered under section 18 of chapter XIIA of the probate code of 1939, 1939 PA 288, MCL 712A.18, that is open to the general public under section 28 of chapter XIIA of the probate code of 1939, 1939 PA 288, MCL 712A.28.

(*iv*) Having an order of disposition or other adjudication in a juvenile matter in another state or country.

(b) "Department" means the department of state police.

(c) "Institution of higher education" means 1 or more of the following:

(*i*) A public or private community college, college, or university.

(*ii*) A public or private trade, vocational, or occupational school.

(d) "Local law enforcement agency" means the police department of a municipality.

(e) "Listed offense" means any of the following:

(*i*) A violation of section 145a, 145b, or 145c of the Michigan penal code, 1931 PA 328, MCL 750.145a, 750.145b, and 750.145c.

(*ii*) A violation of section 158 of the Michigan penal code, 1931 PA 328, MCL 750.158, if a victim is an individual less than 18 years of age.

(*iii*) A violation of section 335a(2)(b) of the Michigan penal code, 1931 PA 328, MCL 750.335a, if that individual was previously convicted of violating section 335a of that act.

(*iv*) A third or subsequent violation of any combination of the following:

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(A) Section 167(1)(f) of the Michigan penal code, 1931 PA 328, MCL 750.167.

(B) Section 335a(2)(a) of the Michigan penal code, 1931 PA 328, MCL 750.335a.

(C) A local ordinance of a municipality substantially corresponding to a section described in sub-subparagraph (A) or (B).

(*v*) Except for a juvenile disposition or adjudication, a violation of section 338, 338a, or 338b of the Michigan penal code, 1931 PA 328, MCL 750.338, 750.338a, and 750.338b, if a victim is an individual less than 18 years of age.

(*vi*) A violation of section 349 of the Michigan penal code, 1931 PA 328, MCL 750.349, if a victim is an individual less than 18 years of age.

(*vii*) A violation of section 350 of the Michigan penal code, 1931 PA 328, MCL 750.350.

(*viii*) A violation of section 448 of the Michigan penal code, 1931 PA 328, MCL 750.448, if a victim is an individual less than 18 years of age.

(*ix*) A violation of section 455 of the Michigan penal code, 1931 PA 328, MCL 750.455.

(*x*) A violation of section 520b, 520c, 520d, 520e, or 520g of the Michigan penal code, 1931 PA 328, MCL 750.520b, 750.520c, 750.520d, 750.520e, and 750.520g.

(*xi*) Any other violation of a law of this state or a local ordinance of a municipality that by its nature constitutes a sexual offense against an individual who is less than 18 years of age.

(*xii*) An offense committed by a person who was, at the time of the offense, a sexually delinquent person as defined in section 10a of the Michigan penal code, 1931 PA 328, MCL 750.10a.

(*xiii*) An attempt or conspiracy to commit an offense described in subparagraphs (*i*) to (*xii*).

(*xiv*) An offense substantially similar to an offense described in subparagraphs (*i*) to (*xiii*) under a law of the United States, any state, or any country or under tribal or military law.

(f) "Municipality" means a city, village, or township of this state.

(g) "Residence", as used in this act, for registration and voting purposes means that place at which a person habitually sleeps, keeps his or her personal effects, and has a regular place of lodging. If a person has more than 1 residence, or if a wife has a residence separate from that of the husband, that place at which the person resides the greater part of the time shall be his or her official residence for the purposes of this act. This section shall not be construed to affect existing judicial interpretation of the term residence.

(h) "Student" means an individual enrolled on a full- or part-time basis in a public or private educational institution, including, but not limited to, a secondary school, trade school, professional institution, or institution of higher education.

History: 1994, Act 295, Eff. Oct. 1, 1995;—Am. 1999, Act 85, Eff. Sept. 1, 1999;—Am. 2002, Act 542, Eff. Oct. 1, 2002;—Am. 2004, Act 240, Eff. Oct. 1, 2004;—Am. 2005, Act 301, Eff. Feb. 1, 2006.

  II

SEX OFFENDER REGISTRATION

28.723 Individuals required to be registered.

Sec. 3. (1) Subject to subsection (2), the following individuals who are domiciled or temporarily reside in this state for 14 or more consecutive days, who work with or without compensation or are students in this state for 14 or more consecutive days, or who are domiciled, reside, or work with or without compensation or are students in this state for 30 or more total days in a calendar year are required to be registered under this act:

(a) An individual who is convicted of a listed offense after October 1, 1995.

(b) An individual convicted of a listed offense on or before October 1, 1995 if on October 1, 1995 he or she is on probation or parole, committed to jail, committed to the jurisdiction of the department of corrections, or under the jurisdiction of the juvenile division of the probate court or the department of social services for that offense or is placed on probation or parole, committed to jail, committed to the jurisdiction of the department of corrections, placed under the jurisdiction of the juvenile division of the probate court or family division of circuit court, or committed to the department of social services or family independence agency after October 1, 1995 for that offense.

(c) An individual convicted of an offense described in section 2(d)(*xiii*) on or before October 1, 1995 if on October 1, 1995 he or she is on probation or parole that has been transferred to this state for that offense or his or her probation or parole is transferred to this state after October 1, 1995 for that offense.

(d) An individual from another state who is required to register or otherwise be identified as a sex or child offender or predator under a comparable statute of that state.

(2) An individual convicted of an offense added on September 1, 1999 to the definition of listed offense is not required to be registered solely because of that listed offense unless 1 of the following applies:

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(a) The individual is convicted of that listed offense on or after September 1, 1999.

(b) On September 1, 1999, the individual is on probation or parole, committed to jail, committed to the jurisdiction of the department of corrections, under the jurisdiction of the family division of circuit court, or committed to the family independence agency for that offense or the individual is placed on probation or parole, committed to jail, committed to the jurisdiction of the department of corrections, placed under the jurisdiction of the family division of circuit court, or committed to the family independence agency on or after September 1, 1999 for that offense.

(c) On September 1, 1999, the individual is on probation or parole for that offense which has been transferred to this state or the individual's probation or parole for that offense is transferred to this state after September 1, 1999.

(d) On September 1, 1999, in another state or country the individual is on probation or parole, committed to jail, committed to the jurisdiction of the department of corrections or a similar type of state agency, under the jurisdiction of a court that handles matters similar to those handled by the family division of circuit court in this state, or committed to an agency with the same authority as the family independence agency for that offense.

History: 1994, Act 295, Eff. Oct. 1, 1995;—Am. 1995, Act 10, Eff. Oct. 1, 1995;—Am. 1999, Act 85, Eff. Sept. 1, 1999.

28.724 Registration; procedures.

Sec. 4. (1) Registration of an individual under this act shall proceed as provided in this section.

(2) For an individual convicted of a listed offense on or before October 1, 1995 who on or before October 1, 1995 is sentenced for that offense, has a disposition entered for that offense, or is assigned to youthful trainee status for that offense, the following shall register the individual by December 31, 1995:

(a) If the individual is on probation for the listed offense, the individual's probation officer.

(b) If the individual is committed to jail for the listed offense, the sheriff or his or her designee.

(c) If the individual is under the jurisdiction of the department of corrections for the listed offense, the department of corrections.

(d) If the individual is on parole for the listed offense, the individual's parole officer.

(e) If the individual is within the jurisdiction of the juvenile division of the probate court or the department of social services under an order of disposition for the listed offense, the juvenile division of the probate court or the department of social services.

(3) Except as provided in subsection (4), for an individual convicted of a listed offense on or before October 1, 1995:

(a) If the individual is sentenced for that offense after October 1, 1995 or assigned to youthful trainee status after October 1, 1995, the probation officer shall register the individual before sentencing or assignment.

(b) If the individual's probation or parole is transferred to this state after October 1, 1995, the probation or parole officer shall register the individual within 14 days after the transfer.

(c) If the individual is placed within the jurisdiction of the juvenile division of the probate court or family division of circuit court or committed to the department of social services or family independence agency under an order of disposition entered after October 1, 1995, the juvenile division of the probate court or family division of circuit court shall register the individual before the order of disposition is entered.

(4) For an individual convicted on or before September 1, 1999 of an offense that was added on September 1, 1999 to the definition of listed offense, the following shall register the individual:

(a) If the individual is on probation or parole on September 1, 1999 for the listed offense, the individual's probation or parole officer not later than September 12, 1999.

(b) If the individual is committed to jail on September 1, 1999 for the listed offense, the sheriff or his or her designee not later than September 12, 1999.

(c) If the individual is under the jurisdiction of the department of corrections on September 1, 1999 for the listed offense, the department of corrections not later than November 30, 1999.

(d) If the individual is within the jurisdiction of the family division of circuit court or committed to the family independence agency or county juvenile agency on September 1, 1999 under an order of disposition for the listed offense, the family division of circuit court, the family independence agency, or the county juvenile agency not later than November 30, 1999.

(e) If the individual is sentenced or assigned to youthful trainee status for that offense after September 1, 1999, the probation officer shall register the individual before sentencing or assignment.

(f) If the individual's probation or parole for the listed offense is transferred to this state after September 1, 1999, the probation or parole officer shall register the individual within 14 days after the transfer.

(g) If the individual is placed within the jurisdiction of the family division of circuit court or committed to

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the family independence agency for the listed offense after September 1, 1999, the family division of circuit court shall register the individual before the order of disposition is entered.

(5) Subject to section 3, an individual convicted of a listed offense in this state after October 1, 1995 shall register before sentencing, entry of the order of disposition, or assignment to youthful trainee status. The probation officer or the family division of circuit court shall give the individual the registration form after the individual is convicted, explain the duty to register and to pay a registration fee, to verify his or her address, and to provide notice of address changes, and accept the completed registration for processing under section 6. The court shall not impose sentence, enter the order of disposition, or, before October 1, 2004, assign the individual to youthful trainee status, until it determines that the individual's registration was forwarded to the department as required under section 6.

(6) All of the following shall register with the local law enforcement agency, sheriff's department, or the department within 14 days after becoming domiciled or temporarily residing, working, or being a student in this state for the periods specified in section 3(1):

(a) Subject to section 3(1), an individual convicted in another state or country after October 1, 1995 of a listed offense as defined before September 1, 1999.

(b) Subject to section 3(2), an individual convicted in another state or country of an offense added on September 1, 1999 to the definition of listed offenses.

(c) An individual required to be registered as a sex offender in another state or country regardless of when the conviction was entered.

History: 1994, Act 295, Eff. Oct. 1, 1995;—Am. 1999, Act 85, Eff. Sept. 1, 1999;—Am. 2004, Act 237, Eff. Oct. 16, 2004;—Am. 2004, Act 240, Eff. Oct. 1, 2004.

28.724a Status report to local law enforcement agency; requirements; reports; written documentation.

Sec. 4a. (1) An individual required to be registered under this act who is not a resident of this state shall report his or her status in person to the local law enforcement agency or sheriff's department having jurisdiction over a campus of an institution of higher education, or to the department post nearest to that campus, if any of the following occur:

(a) Regardless of whether he or she is financially compensated or receives any governmental or educational benefit, the individual is or becomes a full- or part-time employee, contractual provider, or volunteer with that institution of higher education and his or her position will require that he or she be present on that campus for 14 or more consecutive days or 30 or more total days in a calendar year.

(b) The individual is or becomes an employee of a contractual provider described in subdivision (a) and his or her position will require that he or she be present on that campus for 14 or more consecutive days or 30 or more total days in a calendar year.

(c) The status described in subdivision (a) or (b) is discontinued.

(d) The individual changes the campus on which he or she is an employee, a contractual provider, an employee of a contractual provider, or a volunteer as described in subdivision (a) or (b).

(e) The individual is or enrolls as a student with that institution of higher education or the individual discontinues that enrollment.

(f) As part of his or her course of studies at an institution of higher education in this state, the individual is present at any other location in this state, another state, a territory or possession of the United States, or another country for 14 or more consecutive days or 30 or more total days in a calendar year, or the individual discontinues his or her studies at that location.

(2) An individual required to be registered under this act who is a resident of this state shall report his or her status in person to the local law enforcement agency or sheriff's department having jurisdiction where his or her new residence or domicile is located or the department post nearest to the individual's new residence or domicile, if any of the events described under subsection (1) occur.

(3) The report required under subsections (1) and (2) shall be made as follows:

(a) For an individual registered under this act before October 1, 2002 who is required to make his or her first report under subsections (1) and (2), not later than January 15, 2003.

(b) For an individual who is an employee, a contractual provider, an employee of a contractual provider, or a volunteer on that campus on October 1, 2002, or who is a student on that campus on October 1, 2002, who is subsequently required to register under this act, on the date he or she is required to register under this act.

(c) Except as provided under subdivisions (a) and (b), within 10 days after the individual becomes an employee, a contractual provider, an employee of a contractual provider, or a volunteer on that campus, or discontinues that status, or changes location, or within 10 days after he or she enrolls or discontinues his or her enrollment as a student on that campus including study in this state or another state, a territory or

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possession of the United States, or another country.

(4) The additional registration reports required under this section shall be made in the time periods described in section 5a(4)(a) and (b) for reports under that section.

(5) The local law enforcement agency, sheriff's department, or department post to which an individual reports under this section shall require the individual to pay the registration fee required under section 5a or section 7(1) and to present written documentation of employment status, contractual relationship, volunteer status, or student status. Written documentation under this subsection may include, but need not be limited to, any of the following:

(a) A W-2 form, pay stub, or written statement by an employer.

(b) A contract.

(c) A student identification card or student transcript.

History: Add. 2002, Act 542, Eff. Oct. 1, 2002;—Am. 2004, Act 237, Eff. Oct. 16, 2004.

28.725 Change of domicile or residence; notice requirements; release of incarcerated individual; notice to sheriff's department.

Sec. 5. (1) An individual required to be registered under this act shall notify the local law enforcement agency or sheriff's department having jurisdiction where his or her new residence or domicile is located or the department post of the individual's new residence or domicile within 10 days after the individual changes or vacates his or her residence, domicile, or place of work or education, including any change required to be reported under section 4a.

(2) If an individual who is incarcerated in a state correctional facility and is required to be registered under this act is granted parole or is due to be released upon completion of his or her maximum sentence, the department of corrections, before releasing the individual, shall provide notice of the location of the individual's proposed place of residence or domicile to the sheriff's department having jurisdiction over that location or to the appropriate state police department post.

(3) Within 10 days after either of the following occurs, the department of corrections shall notify the local law enforcement agency or sheriff's department having jurisdiction over the area to which the individual is transferred or the department post of the transferred residence or domicile of an individual required to be registered under this act:

(a) The individual is transferred to a community residential program.

(b) The individual is transferred into a minimum custody correctional facility of any kind, including a correctional camp or work camp.

(4) An individual required to be registered under this act shall notify the department on a form prescribed by the department not later than 10 days before he or she changes his or her domicile or residence to another state. The individual shall indicate the new state and, if known, the new address. The department shall update the registration and compilation databases and promptly notify the appropriate law enforcement agency and any applicable sex or child offender registration authority in the new state.

(5) If the probation or parole of an individual required to be registered under this act is transferred to another state or an individual required to be registered under this act is transferred from a state correctional facility to any correctional facility or probation or parole in another state, the department of corrections shall promptly notify the department and the appropriate law enforcement agency and any applicable sex or child offender registration authority in the new state. The department shall update the registration and compilation databases.

(6) An individual registered under this act shall comply with the verification procedures and proof of residence procedures prescribed in sections 4a and 5a.

(7) Except as provided in subsections (8) and (9), an individual shall comply with this section for 25 years after the date of initially registering or, if the individual is in a state correctional facility, for 10 years after release from the state correctional facility, whichever is longer.

(8) Except as provided in subsection (9), an individual shall comply with this section for life if the individual is convicted of any of the following or a substantially similar offense under a law of the United States, any state, or any country or under tribal or military law:

(a) A violation of section 520b of the Michigan penal code, 1931 PA 328, MCL 750.520b.

(b) A violation of section 520c(1)(a) of the Michigan penal code, 1931 PA 328, MCL 750.520c.

(c) A violation of section 349 of the Michigan penal code, 1931 PA 328, MCL 750.349, if the victim is less than 18 years of age.

(d) A violation of section 350 of the Michigan penal code, 1931 PA 328, MCL 750.350.

(e) A violation of section 145c(2) or (3) of the Michigan penal code, 1931 PA 328, MCL 750.145c.

(f) An attempt or conspiracy to commit an offense described in subdivisions (a) to (e).

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(g) Except as provided in this subdivision, a second or subsequent listed offense after October 1, 1995 regardless of when any earlier listed offense was committed. An individual is not required to comply with this section for life if his or her first or second listed offense is for a conviction on or before September 1, 1999 for an offense that was added on September 1, 1999 to the definition of listed offense, unless he or she is convicted of a subsequent listed offense after September 1, 1999.

(9) An individual who is ordered to register as provided in section 8d shall register subject to that section.

History: 1994, Act 295, Eff. Oct. 1, 1995;—Am. 1999, Act 85, Eff. Sept. 1, 1999;—Am. 2002, Act 542, Eff. Oct. 1, 2002;—Am. 2004, Act 240, Eff. Oct. 1, 2004;—Am. 2005, Act 123, Eff. Jan. 1, 2006;—Am. 2005, Act 132, Eff. Jan. 1, 2006;—Am. 2006, Act 402, Eff. Dec. 1, 2006.

28.725a Notice to registered individual; explanation of duties; reporting requirements.

Sec. 5a. (1) Not later than December 1, 2004, the department shall mail a notice to each individual registered under this act who is not in a state correctional facility explaining the individual's duties under this section and this act as amended and the procedure for registration, notification, and verification and paying the registration fee prescribed under subsection (7) or section 7(1).

(2) Upon the release of an individual registered under this act who is in a state correctional facility, the department of corrections shall provide written notice to that individual explaining his or her duties under this section and this act as amended and the procedure for registration, notification, and verification and payment of the registration fee prescribed under subsection (7) or section 7(1). The individual shall sign and date the notice. The department of corrections shall maintain a copy of the signed and dated notice in the individual's file. The department of corrections shall forward the original notice to the department within 30 days, regardless of whether the individual signs it.

(3) Not later than January 15, 2000, an individual registered under this act who is not incarcerated shall report in person to the local law enforcement agency or sheriff's department having jurisdiction where he or she is domiciled or resides or to the department post in or nearest to the county where he or she is domiciled or resides. The individual shall present proof of domicile or residence and update any information that changed since registration, including information that is required to be reported under section 4a. An individual registered under this act who is incarcerated on January 15, 2000 shall report under this subsection not less than 10 days after he or she is released.

(4) Except as provided in subsection (5), following initial verification under subsection (3), or registration under this act after January 15, 2000, an individual required to be registered under this act who is not incarcerated shall report in person to the local law enforcement agency or sheriff's department having jurisdiction where he or she is domiciled or resides or to the department post in or nearest to the county where he or she is domiciled or resides for verification of domicile or residence as follows:

(a) If the person is registered only for 1 or more listed offenses that are misdemeanors, not earlier than January 1 or later than January 15 of each year after the initial verification or registration. As used in this subdivision, "misdemeanor" means that term as defined in section 1 of chapter I of the code of criminal procedure, 1927 PA 175, MCL 761.1.

(b) If the person is registered for 1 or more listed offenses that are felonies, not earlier than the first day or later than the fifteenth day of each April, July, October, and January following initial verification or registration. As used in this subdivision, "felony" means that term as defined in section 1 of chapter I of the code of criminal procedure, 1927 PA 175, MCL 761.1.

(5) The continued reporting requirements of this section following initial registration do not apply to an individual convicted as a juvenile of committing an offense described in section 8c(15)(a) or (b) committed by the individual when he or she was less than 17 years of age, except that the individual shall report a change in his or her residence within this state or to another state as provided in this section within 10 days after the change of residence is made. If the individual fails to file a petition under section 8c before he or she becomes 18 years of age, or if his or her petition is denied by the court, the individual shall report as otherwise required under this section.

(6) When an individual reports under subsection (3) or (4), an officer or authorized employee of the local law enforcement agency, sheriff's department, or department post shall verify the individual's residence or domicile and any information required to be reported under section 4a. The officer or authorized employee shall sign and date a verification form. The officer shall give a copy of the signed form showing the date of verification to the individual. The officer or employee shall forward verification information to the department by the law enforcement information network in the manner the department prescribes. The department shall revise the databases maintained under section 8 as necessary and shall indicate verification in the compilation under section 8(2).

(7) Except as otherwise provided in section 5b, beginning October 16, 2004, an individual who reports as

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prescribed under subsection (3) or (4) and who has not already paid the fee prescribed under section 7(1) shall pay a $35.00 registration fee. An individual shall only be required to pay a fee once under this subsection.

(8) An individual required to be registered under this act shall maintain either a valid operator's or chauffeur's license issued under the Michigan vehicle code, 1949 PA 300, MCL 257.1 to 257.923, or an official state personal identification card issued under 1972 PA 222, MCL 28.291 to 28.300, with the individual's current address. The license or card may be used as proof of domicile or residence under this section. In addition, the officer or authorized employee may require the individual to produce another document bearing his or her name and address, including, but not limited to, voter registration or a utility or other bill. The department may specify other satisfactory proof of domicile or residence.

(9) Not earlier than January 1, 2000 or later than January 15, 2000, an individual registered under this act who is not incarcerated shall report in person to a secretary of state office and have his or her digitized photograph taken. An individual registered under this act who is incarcerated on January 15, 2000 shall report under this subsection not less than 10 days after he or she is released. The individual is not required to report under this subsection if he or she had a digitized photograph taken for an operator's or chauffeur's license or official state personal identification card before January 1, 2000, or within 2 years before he or she is released. The photograph shall be used on the individual's operator's or chauffeur's license or official state personal identification card. The individual shall have a new photograph taken when he or she renews the license or identification card as provided by law. The secretary of state shall make the digitized photograph available to the department for a registration under this act.

(10) If an individual does not report under subsection (3) or (4) or section 4a, the department shall notify the local law enforcement agency, sheriff's department, or department post. An appearance ticket may be issued for the individual's failure to report as provided in sections 9a to 9g of chapter IV of the code of criminal procedure, 1927 PA 175, MCL 764.9a to 764.9g.

(11) The department shall prescribe the form for the notices and verification procedures required under this section.

History: Add. 1999, Act 85, Eff. Sept. 1, 1999;—Am. 2002, Act 542, Eff. Oct. 1, 2002;—Am. 2004, Act 237, Eff. Oct. 16, 2004;—Am. 2004, Act 240, Eff. Oct. 1, 2004;—Am. 2005, Act 322, Eff. Jan. 1, 2006.

28.725b Sex offenders registration fund; creation; disposition of money; use; lapse; claim of indigence; waiver of fee; payments.

Sec. 5b. (1) Of the money collected by a court, local law enforcement agency, sheriff's department, or department post from each registration fee prescribed under this act, $25.00 shall be forwarded to the department, which shall deposit the money in the sex offenders registration fund created under subsection (2), and $10.00 shall be retained by the court, local law enforcement agency, sheriff's department, or department post.

(2) The sex offenders registration fund is created as a separate fund in the department of treasury. The state treasurer shall credit the money received from the payment of the registration fee prescribed under this act to the sex offenders registration fund. Money credited to the fund shall only be used by the department for training concerning, and the maintenance and automation of, the databases, compilation, and information required under section 8. Money in the sex offenders registration fund at the close of the fiscal year shall remain in the fund and shall not lapse to the general fund.

(3) If an individual required to pay a registration fee under this act is indigent, the registration fee shall be temporarily waived. The burden is on the individual claiming indigence to prove the fact of indigence to the satisfaction of the local law enforcement agency, sheriff's department, or department post where the individual is reporting.

(4) Payment of the registration fee prescribed under this act shall be made in the form and by means prescribed by the department. Upon payment of the registration fee prescribed under this act, the officer or employee shall forward verification of the payment to the department by the law enforcement information network in the manner the department prescribes. The department shall revise the databases maintained under section 8 as necessary and shall indicate verification of payment in the compilation under section 8(2).

History: Add. 2004, Act 237, Eff. Oct. 16, 2004.

28.725c Fee collected by department of corrections; prohibition.

Sec. 5c. The department of corrections shall not collect any fee prescribed under this act.

History: Add. 2004, Act 237, Eff. Oct. 16, 2004.

28.726 Providing or forwarding copy of registration or notification.

Sec. 6. (1) The officer, court, or agency registering an individual or receiving or accepting a registration

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under section 4 or receiving notice under section 5(1) shall provide the individual with a copy of the registration or notification at the time of registration or notice.

(2) The officer, court, or agency registering an individual or receiving or accepting a registration under section 4 or notified of an address change under section 5(1) shall forward the registration or notification to the department by the law enforcement information network within 3 business days after registration or notification.

History: 1994, Act 295, Eff. Oct. 1, 1995;—Am. 1996, Act 494, Eff. Apr. 1, 1997.

28.727 Registration form.

Sec. 7. (1) A registration under this act shall be made on a form provided by the department and shall be forwarded to the department in the format the department prescribes, along with a $35.00 registration fee for each original registration, except as otherwise provided in section 5b. A registration shall contain all of the following:

(a) The individual's name, social security number, date of birth, and address or expected address. An individual who is in a witness protection and relocation program is only required to use the name and identifying information reflecting his or her new identity in a registration under this act. The registration and compilation databases shall not contain any information identifying the individual's prior identity or locale. The department shall request each individual to provide his or her date of birth if it is not included in the registration, and that individual shall comply with the request within 10 days.

(b) A brief summary of the individual's convictions for listed offenses regardless of when the conviction occurred, including where the offense occurred and the original charge if the conviction was for a lesser offense.

(c) A complete physical description of the individual.

(d) The photograph required under section 5a.

(e) The individual's fingerprints if not already on file with the department. An individual required to be registered on September 1, 1999 shall have his or her fingerprints taken not later than September 12, 1999 if not already on file with the department. The department shall forward a copy of the individual's fingerprints to the federal bureau of investigation if not already on file with that bureau.

(f) Information that is required to be reported under section 4a.

(2) A registration may contain the individual's blood type and whether a DNA identification profile of the individual is available.

(3) The form used for registration or verification under this act shall contain a written statement that explains the duty of the individual being registered to provide notice of a change of address under section 5, the procedures for providing that notice, and the verification procedures under section 5a.

(4) The individual shall sign a registration, notice, and verification. However, the registration, notice, or verification shall be forwarded to the department regardless of whether the individual signs it or pays the registration fee required under subsection (1).

(5) The officer, court, or an employee of the agency registering the individual or receiving or accepting a registration under section 4 shall sign the registration form.

(6) An individual shall not knowingly provide false or misleading information concerning a registration, notice, or verification.

(7) The department shall prescribe the form for a notification required under section 5 and the format for forwarding the notification to the department.

(8) The department shall promptly provide registration, notice, and verification information to the federal bureau of investigation and to local law enforcement agencies, sheriff's departments, department posts, and agencies of other states requiring the information, as provided by law.

History: 1994, Act 295, Eff. Oct. 1, 1995;—Am. 1996, Act 494, Eff. Apr. 1, 1997;—Am. 1999, Act 85, Eff. Sept. 1, 1999;—Am. 2002, Act 542, Eff. Oct. 1, 2002;—Am. 2004, Act 237, Eff. Oct. 16, 2004.

28.728 Database; compilation; availability.

Sec. 8. (1) The department shall maintain a computerized database of registrations and notices required under this act.

(2) The department shall maintain a computerized database separate from that described in subsection (1) to implement section 10(2) and (3). Except as provided in subsection (3), the database shall consist of a compilation of individuals registered under this act.

(3) The database described in subsection (2) shall not include the following individuals:

(a) An individual registered solely because he or she had 1 or more dispositions for a listed offense entered under section 18 of chapter XIIA of the probate code of 1939, 1939 PA 288, MCL 712A.18, in a case that was

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not designated as a case in which the individual was to be tried in the same manner as an adult under section 2d of chapter XIIA of the probate code of 1939, 1939 PA 288, MCL 712A.2d. Except as provided in subdivision (b), the exclusion for juvenile dispositions does not apply to a disposition for a violation of section 520b or 520c of the Michigan penal code, 1931 PA 328, MCL 750.520b and 750.520c, after the individual becomes 18 years of age.

(b) An individual who is exempt under section 8d from that database.

(4) The compilation of individuals shall be indexed numerically by zip code area. Within each zip code area, the compilation shall contain all of the following information:

(a) The name and aliases, address, physical description, and birth date of each individual registered under this act who is included in the compilation and who resides in that zip code area and any listed offense of which the individual has been convicted.

(b) The name and campus location of each institution of higher education to which the individual is required to report under section 4a.

(c) Beginning May 1, 2005, the photograph of each individual registered under this act. The department shall obtain the photographs submitted under section 5a from the secretary of state for purposes of implementing this subdivision.

(5) The department shall update the compilation with new registrations, deletions from registrations, and address changes at the same time those changes are made to the database described in subsection (1). The department shall make the compilation available to each department post, local law enforcement agency, and sheriff's department by the law enforcement information network. Upon request by a department post, local law enforcement agency, or sheriff's department, the department shall provide to that post, agency, or sheriff's department the information from the compilation in printed form for the zip code areas located in whole or in part within the post's, agency's, or sheriff's department's jurisdiction. The department shall provide the ability to conduct a computerized search of the compilation based upon the name and campus location of an institution of higher education described in subsection (4)(b).

(6) The department shall make the compilation or information from the compilation available to a department post, local law enforcement agency, sheriff's department, and the public by electronic, computerized, or other similar means accessible to the post, agency, or sheriff's department. The electronic, computerized, or other similar means shall provide for both a search by name and by zip code.

(7) If a court determines that the public availability under section 10 of any information concerning individuals registered under this act, including names and aliases, addresses, physical descriptions, or dates of birth, violates the constitution of the United States or this state, the department shall revise the compilation in subsection (2) so that it does not contain that information.

History: 1994, Act 295, Eff. Oct. 1, 1995;—Am. 1996, Act 494, Eff. Apr. 1, 1997;—Am. 1999, Act 85, Eff. Sept. 1, 1999;—Am. 2002, Act 542, Eff. Oct. 1, 2002;—Am. 2004, Act 238, Eff. May 1, 2005;—Am. 2004, Act 240, Eff. Oct. 1, 2004.

28.728a, 28.728b Repealed. 2004, Act 240, Eff. Oct. 1, 2004.

Compiler's note: The repealed sections pertained to feasibility studies for providing search by alias and mapping to show address and compilation of individuals not requiring registration.

28.728c Individual convicted of violation described in subsection (15); petition; jurisdiction; limitations; oath; contents; false statement; filing copy with office of prosecution; notice; entry on database; hearing; rights of victim; factors in court determination; court order; individuals with right to petition.

Sec. 8c. (1) An individual described in subsection (15) who is convicted before October 1, 2004 of a violation described in that subsection may petition the court under this section for an order allowing him or her to register under this act as provided in section 8d(1).

(2) An individual described in subsection (15)(a) or (b) who is convicted on or after October 1, 2004 of a violation described in that subsection may petition the court under this section for an order allowing him or her to register under this act as provided in section 8d(1).

(3) This section is the sole means by which an individual may obtain judicial review of his or her registration requirements under this act. This subsection does not prohibit an appeal of the conviction or sentence as otherwise provided by law or court rule.

(4) A petition filed under this section shall be filed in the court in which the individual was convicted of committing the listed offense. A petition filed under subsection (1) shall be filed before October 1, 2007 or within 3 years after the individual is discharged from the jurisdiction of the juvenile court or, if the individual was assigned to youthful trainee status, within 3 years after he or she has successfully completed youthful trainee status, whichever is later, and, except as otherwise provided in this subsection, the court shall not

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consider a petition filed by the individual after that date. A petition filed under subsection (2) shall not be filed before the individual's seventeenth birthday or after the individual's twentieth birthday. If the individual is charged in this state or elsewhere with committing, attempting to commit, or conspiring to commit a felony, other than the felony for which he or she has filed the petition for registration as provided under section 8d, or an offense that if committed by an adult would be a felony, the court may hold the petition in abeyance until the charges are finally disposed of. If the court holds the petition in abeyance, the 3-year limitation periods described in this subsection begin to run when the period of abeyance has ended. A petition shall not be filed under this section if a previous petition was filed under this section and was denied by the court after a hearing. As used in this subsection, “felony” means a crime that is specifically designated to be a felony or that is punishable by imprisonment for more than 1 year.

(5) A petition filed under this section shall be made under oath and shall contain all of the following:

(a) The name and address of the petitioner.

(b) A statement identifying the offense for which registration as provided in section 8d is being requested.

(c) A statement of whether the individual was previously convicted of a listed offense for which registration is required under this act.

(d) A statement specifically stating that the individual is not disqualified under subsection (14) from filing a petition under this section.

(6) An individual who knowingly makes a false statement in a petition filed under this section is guilty of perjury as proscribed under section 423 of the Michigan penal code, 1931 PA 328, MCL 750.423.

(7) A copy of the petition shall be filed with the office of the prosecuting attorney that prosecuted the case against the individual at least 30 days before a hearing is held on the petition. The prosecuting attorney may appear and participate in all proceedings regarding the petition and may seek appellate review of any decision on the petition.

(8) If the name of the victim of the offense is known by the prosecuting attorney, the prosecuting attorney shall provide the victim with written notice that a petition has been filed and shall provide the victim with a copy of the petition. The notice shall be sent by first-class mail to the victim's last known address. The petition shall include a statement of the victim's rights under subsection (11).

(9) If an individual petitions the court under subsection (1) or (2) for an offense described in subsection (15)(a) or (b) and the individual is not on the database maintained under section 8(2) at the time the petition is filed, the court may order the department not to place the individual on that database during the period in which the court is considering whether to grant the petition as follows:

(a) Except as provided in subdivision (b), for a period of 30 days after the date the order is issued or as provided by the court, whichever occurs first.

(b) If jurisdiction is continued by the court past the individual's seventeenth birthday, during the period in which jurisdiction is continued. The court shall notify the department of the order as required under section 8d.

(10) If an individual properly files a petition with the court under this section, the court shall conduct a hearing on the petition as provided in this section.

(11) The victim has the right to attend all proceedings under this section and to make a written or oral statement to the court before any decision regarding the petition is made. A victim shall not be required to appear at any proceeding under this section against his or her will.

(12) The court shall consider all of the following in determining whether to allow the individual to register under this act as provided in section 8d:

(a) The individual's age and level of maturity at the time of the offense.

(b) The victim's age and level of maturity at the time of the offense.

(c) The nature of the offense.

(d) The severity of the offense.

(e) The individual's prior juvenile or criminal history.

(f) The individual's likelihood to commit further listed offenses.

(g) Any impact statement submitted by the victim under the crime victim's rights act, 1985 PA 87, MCL 780.751 to 780.834, or under this section.

(h) Any other information considered relevant by the court.

(13) If the court determines that the individual meets the criteria for registration under section 8d, the court may order the individual to register under this act as provided in that section.

(14) The court shall not grant a petition filed under this section if any of the following apply:

(a) The individual was previously convicted of a listed offense for which registration is required under this act.

(b) The individual fails to carry the burden of proving by clear and convincing evidence that he or she is

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not likely to commit further listed offenses.

(c) The court determines that the offense involved any of the following:

(*i*) A factor set forth in section 520b(1)(b) to (h) of the Michigan penal code, 1931 PA 328, MCL 750.520b.

(*ii*) A factor set forth in section 520c(1)(b) to (*l*) of the Michigan penal code, 1931 PA 328, MCL 750.520c.

(*iii*) A factor set forth in section 520d(1)(b) to (e) of the Michigan penal code, 1931 PA 328, MCL 750.520d.

(*iv*) A factor set forth in section 520e(1)(b) to (f) of the Michigan penal code, 1931 PA 328, MCL 750.520e.

(d) The individual is charged in this state or elsewhere with committing, attempting to commit, or conspiring to commit a felony, other than the felony for which he or she has filed the petition for registration as provided under section 8d, or an offense that if committed by an adult would be a felony. This subsection does not prohibit the court from holding the petition in abeyance under subsection (4). As used in this subdivision, "felony" means a crime specifically designated to be a felony or that is punishable by imprisonment for more than 1 year.

(e) The individual was sentenced for the offense as an adult. This subdivision does not apply to an individual described in subsection (15)(c) who successfully completed his or her probationary period and was discharged from youthful trainee status.

(15) The right to petition under this section applies to all of the following individuals:

(a) An individual who is convicted as a juvenile under section 520b, 520c, or 520d of the Michigan penal code, 1931 PA 328, MCL 750.520b, 750.520c, and 750.520d, of committing, attempting to commit, or conspiring to commit a violation solely described in section 520b(1)(a), 520c(1)(a), or 520d(1)(a) of the Michigan penal code, 1931 PA 328, MCL 750.520b, 750.520c, and 750.520d, if either of the following applies:

(*i*) The individual was under 13 years of age when he or she committed the offense and is not more than 5 years older than the victim.

(*ii*) The individual was 13 years of age or older but less than 17 years of age when he or she committed the offense and is not more than 3 years older than the victim.

(b) An individual who was charged under section 520b, 520c, or 520d of the Michigan penal code, 1931 PA 328, MCL 750.520b, 750.520c, and 750.520d, with committing, attempting to commit, or conspiring to commit a violation solely described in section 520b(1)(a), 520c(1)(a), or 520d(1)(a) of the Michigan penal code, 1931 PA 328, MCL 750.520b, 750.520c, and 750.520d, and is convicted as a juvenile of violating, attempting to violate, or conspiring to violate section 520e or 520g of the Michigan penal code, 1931 PA 328, MCL 750.520e and 750.520g, if either of the following applies:

(*i*) The individual was under 13 years of age when he or she committed the offense and is not more than 5 years older than the victim.

(*ii*) The individual was 13 years of age or older but less than 17 years of age when he or she committed the offense and is not more than 3 years older than the victim.

(c) An individual who has successfully completed his or her probationary period under sections 11 to 15 of chapter II of the code of criminal procedure, 1927 PA 175, MCL 762.11 to 762.15, for committing a listed offense, and has been discharged from youthful trainee status.

History: Add. 2004, Act 240, Eff. Oct. 1, 2004.

28.728d Court order granting petition.

Sec. 8d. (1) An individual who petitions the court under section 8c to register as provided in this section shall register under this act as follows:

(a) For a violation described in section 8c(15)(a) or (b), the individual shall register under this act until the petition is granted but is not subject to the requirements of section 8(2).

(b) For a violation described in section 8c(15)(c) and for which the petition is granted, the individual shall register under this act for a period of 10 years after the date he or she initially registered or, if the individual was in a state correctional facility, for 10 years after he or she is released from that facility, whichever is greater, and is subject to the requirements of section 8(2) during that registration period.

(2) If the court under section 8c orders an individual to register under this section pending the court's determination of the petition, the court shall promptly provide a copy of that order to the department and to the individual. If the department is provided with an order under this subsection for an individual described in section 8c(15)(a) or (b), the department shall not enter the individual's registration into the database maintained under section 8(2) until ordered by the court to do so or until expiration of the order, whichever

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occurs first.

(3) If the court grants a petition filed under section 8c, the court shall promptly provide a copy of that order to the department and to the individual. If the department is provided with an order under this subsection for a violation described in section 8c(15)(a) or (b), the department shall not enter the individual's registration into the database maintained under section 8(2) or, if the person is already registered, shall promptly remove that registration from the database maintained under section 8(2). The department shall promptly remove an individual's registration from the database maintained under section 8(1) upon expiration of the applicable registration period described in subsection (1) or (2) as provided in those subsections.

History: Add. 2004, Act 240, Eff. Oct. 1, 2004.

28.729 Registration required; violations; penalties.

Sec. 9. (1) Except as provided in subsections (2), (3), and (4), an individual required to be registered under this act who willfully violates this act is guilty of a felony punishable as follows:

(a) If the individual has no prior convictions for a violation of this act, other than a failure to comply with section 5a, by imprisonment for not more than 4 years or a fine of not more than $2,000.00, or both.

(b) If the individual has 1 prior conviction for a violation of this act, other than a failure to comply with section 5a, by imprisonment for not more than 7 years or a fine of not more than $5,000.00, or both.

(c) If the individual has 2 or more prior convictions for violations of this act, other than a failure to comply with section 5a, by imprisonment for not more than 10 years or a fine of not more than $10,000.00, or both.

(2) An individual who fails to comply with section 5a, other than payment of the fee required under section 5a(7) is guilty of a crime punishable as follows:

(a) If the individual has no prior convictions for a violation of this act, the individual is guilty of a misdemeanor punishable by imprisonment for not more than 93 days or a fine of not more than $1,000.00, or both.

(b) If the individual has 1 prior conviction for a violation of this act, the individual is guilty of a misdemeanor punishable by imprisonment for not more than 1 year or a fine of not more than $2,000.00, or both.

(c) If the individual has 2 or more prior convictions for a violation of this act, the individual is guilty of a felony punishable by imprisonment for not more than 4 years or a fine of not more than $2,500.00, or both.

(3) An individual who willfully fails to sign a registration, notice, or verification as provided in section 7(4) is guilty of a misdemeanor punishable by imprisonment for not more than 93 days or a fine of not more than $1,000.00, or both.

(4) An individual who willfully refuses or fails to pay the registration fee prescribed in section 5a(7) or section 7(1) within 90 days of the date the individual reports under section 4a or 5a is guilty of a misdemeanor punishable by imprisonment for not more than 90 days.

(5) The court shall revoke the probation of an individual placed on probation who willfully violates this act.

(6) The court shall revoke the youthful trainee status of an individual assigned to youthful trainee status who willfully violates this act.

(7) The parole board shall rescind the parole of an individual released on parole who willfully violates this act.

(8) An individual's failure to register as required by this act or a violation of section 5(1), (3), or (4) may be prosecuted in the judicial district of any of the following:

(a) The individual's last registered address or residence.

(b) The individual's actual address or residence.

(c) Where the individual was arrested for the violation.

History: 1994, Act 295, Eff. Oct. 1, 1995;—Am. 1999, Act 85, Eff. Sept. 1, 1999;—Am. 2002, Act 542, Eff. Oct. 1, 2002;—Am. 2004, Act 237, Eff. Oct. 16, 2004;—Am. 2005, Act 132, Eff. Jan. 1, 2006.

28.730 Confidentiality; exemption from disclosure; availability of information from compilation; violation as misdemeanor; penalty; civil cause of action; applicability of subsections (4) and (5) to compilation.

Sec. 10. (1) Except as provided in this act, a registration or report is confidential and information from that registration or report shall not be open to inspection except for law enforcement purposes. The registration or report and all included materials and information are exempt from disclosure under section 13 of the freedom of information act, 1976 PA 442, MCL 15.243.

(2) A department post, local law enforcement agency, or sheriff's department shall make information from the compilation described in section 8(2) for the zip code areas located in whole or in part within the post's,

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agency's, or sheriff's department's jurisdiction available for public inspection during regular business hours. A department post, local law enforcement agency, or sheriff's department is not required to make a copy of the information for a member of the public.

(3) The department may make information from the compilation described in section 8(2) available to the public through electronic, computerized, or other accessible means. The department shall provide for notification by electronic or computerized means to any member of the public who has subscribed in a manner required by the department when an individual who is the subject of the compilation described in section 8(2) initially registers under this act, or changes his or her registration under this act, to a location that is in a zip code area designated by the subscribing member of the public.

(4) Except as provided in this act, an individual other than the registrant who knows of a registration or report under this act and who divulges, uses, or publishes nonpublic information concerning the registration or report in violation of this act is guilty of a misdemeanor punishable by imprisonment for not more than 93 days or a fine of not more than $1,000.00, or both.

(5) An individual whose registration or report is revealed in violation of this act has a civil cause of action against the responsible party for treble damages.

(6) Subsections (4) and (5) do not apply to the compilation described in section 8(2) or information from that compilation that is provided or made available under section 8(2) or under subsection (2) or (3).

History: 1994, Act 295, Eff. Oct. 1, 1995;—Am. 1996, Act 494, Eff. Apr. 1, 1997;—Am. 1999, Act 85, Eff. Sept. 1, 1999;—Am. 2002, Act 542, Eff. Oct. 1, 2002;—Am. 2004, Act 240, Eff. Oct. 1, 2004;—Am. 2006, Act 46, Eff. Jan. 1, 2007.

28.731 Effective date.

Sec. 11. This act shall take effect October 1, 1995.

History: 1994, Act 295, Eff. Oct. 1, 1995.

28.732 Conditional effective date.

Sec. 12. This act shall not take effect unless all of the following bills of the 87th Legislature are enacted into law:

(a) Senate Bill No. 193.

(b) Senate Bill No. 194.

(c) Senate Bill No. 400.

(d) House Bill No. 4601.

History: 1994, Act 295, Eff. Oct. 1, 1995.

Compiler's note: The bills referred to in this section were enacted into law as follows:
Senate Bill No. 193 was filed with the Secretary of State July 13, 1994, and became P.A. 1994, No. 286, Eff. Oct. 1, 1995.
Senate Bill No. 194 was filed with the Secretary of State July 13, 1994, and became P.A. 1994, No. 287, Eff. Oct. 1, 1995.
Senate Bill No. 400 was filed with the Secretary of State July 14, 1994, and became P.A. 1994, No. 294, Eff. Oct. 1, 1995.
House Bill No. 4601 was filed with the Secretary of State December 22, 1994, and became P.A. 1994, No. 355, Eff. Oct. 1, 1995.

III
STUDENT SAFETY ZONES

28.733 Definitions.

Sec. 33. As used in this article:

(a) "Listed offense" means that term as defined in section 2 of the sex offenders registration act, 1994 PA 295, MCL 28.722.

(b) "Loiter" means to remain for a period of time and under circumstances that a reasonable person would determine is for the primary purpose of observing or contacting minors.

(c) "Minor" means an individual less than 18 years of age.

(d) "School" means a public, private, denominational, or parochial school offering developmental kindergarten, kindergarten, or any grade from 1 through 12. School does not include a home school.

(e) "School property" means a building, facility, structure, or real property owned, leased, or otherwise controlled by a school, other than a building, facility, structure, or real property that is no longer in use on a permanent or continuous basis, to which either of the following applies:

(*i*) It is used to impart educational instruction.

(*ii*) It is for use by students not more than 19 years of age for sports or other recreational activities.

(f) "Student safety zone" means the area that lies 1,000 feet or less from school property.

History: Add. 2005, Act 121, Eff. Jan. 1, 2006;—Add. 2005, Act 127, Eff. Jan. 1, 2006.

Compiler's note: MCL 28.733 was added by 2005 PA 121 and 2005 PA 127. 2005 PA 127, being substantively the same as the 2005 PA 121, supersedes and becomes the only version on its effective date.

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28.734 Prohibited conduct; violation; penalty; exceptions; other violations; right to vote.

Sec. 34. (1) Except as provided in this section and section 36, an individual required to be registered under article II shall not do 1 or more of the following:

(a) Work within a student safety zone.

(b) Loiter within a student safety zone.

(2) An individual who violates this section is guilty of a crime as follows:

(a) For the first violation, the individual is guilty of a misdemeanor punishable by imprisonment for not more than 1 year or a fine of not more than $1,000.00, or both.

(b) An individual who violates this section and has 1 or more prior convictions under this section is guilty of a felony punishable by imprisonment for not more than 2 years or a fine of not more than $2,000.00, or both.

(3) Subsection (1)(a) does not apply to any of the following:

(a) An individual who was working within a student safety zone on January 1, 2006. However, this exception does not apply to an individual who initiates or maintains contact with a minor within that student safety zone.

(b) An individual whose place of employment is within a student safety zone solely because a school is relocated or is initially established 1,000 feet or less from the individual's place of employment. However, this exception does not apply to an individual who initiates or maintains contact with a minor within that student safety zone.

(c) An individual who only intermittently or sporadically enters a student safety zone for the purpose of work. However, this exception does not apply to an individual who initiates or maintains contact with a minor within a student safety zone.

(4) This section does not prohibit an individual from being charged with, convicted of, or punished for any other violation of law that is committed by that individual while violating this section.

(5) Nothing in this section shall be construed to prohibit an individual from exercising his or her right to vote.

History: Add. 2005, Act 127, Eff. Jan. 1, 2006;—Am. 2005, Act 322, Eff. Jan. 1, 2006.

28.735 Registered individual residing in student safety zone; prohibited conduct; violation; penalties; exceptions.

Sec. 35. (1) Except as otherwise provided in this section and section 36, an individual required to be registered under article II shall not reside within a student safety zone.

(2) An individual who violates subsection (1) is guilty of a crime as follows:

(a) For the first violation, the individual is guilty of a misdemeanor punishable by imprisonment for not more than 1 year or a fine of not more than $1,000.00, or both.

(b) An individual who violates this section and has 1 or more prior convictions under this section is guilty of a felony punishable by imprisonment for not more than 2 years or a fine of not more than $2,000.00, or both.

(3) This section does not apply to any of the following:

(a) An individual who is not more than 19 years of age and attends secondary school or postsecondary school, and resides with his or her parent or guardian. However, this exception does not apply to an individual who initiates or maintains contact with a minor within that student safety zone. However, the individual may initiate or maintain contact with a minor with whom he or she attends secondary school or postsecondary school in conjunction with that school attendance.

(b) An individual who is not more than 26 years of age and attends a special education program, and resides with his or her parent or guardian or resides in a group home or assisted living facility. However, an individual described in this subdivision shall not initiate or maintain contact with a minor within that student safety zone. The individual shall be permitted to initiate or maintain contact with a minor with whom he or she attends a special education program in conjunction with that attendance.

(c) An individual who was residing within that student safety zone on January 1, 2006. However, this exception does not apply to an individual who initiates or maintains contact with a minor within that student safety zone.

(d) An individual who is a patient in a hospital or hospice that is located within a student safety zone. However, this exception does not apply to an individual who initiates or maintains contact with a minor within that student safety zone.

(e) An individual who resides within a student safety zone because the individual is an inmate or resident of a prison, jail, juvenile facility, or other correctional facility or is a patient of a mental health facility under

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an order of commitment. However, this exception does not apply to an individual who initiates or maintains contact with a minor within that student safety zone.

(4) An individual who resides within a student safety zone and who is subsequently required to register under article II shall change his or her residence to a location outside the student safety zone not more than 90 days after he or she is sentenced for the conviction that gives rise to the obligation to register under article II. However, this exception does not apply to an individual who initiates or maintains contact with a minor within that student safety zone during the 90-day period described in this subsection.

(5) This section does not prohibit an individual from being charged with, convicted of, or punished for any other violation of law that is committed by that individual while violating this section.

History: Add. 2005, Act 121, Eff. Jan. 1, 2006;—Am. 2005, Act 322, Eff. Jan. 1, 2006.

28.736 Exemptions.

Sec. 36. (1) Subject to subsection (2), sections 34 and 35 do not apply to any of the following:

(a) An individual who is convicted as a juvenile under section 520b, 520c, or 520d of the Michigan penal code, 1931 PA 328, MCL 750.520b, 750.520c, and 750.520d, of committing, attempting to commit, or conspiring to commit a violation solely described in section 520b(1)(a), 520c(1)(a), or 520d(1)(a) of the Michigan penal code, 1931 PA 328, MCL 750.520b, 750.520c, and 750.520d, if either of the following applies:

(*i*) The individual was under 13 years of age when he or she committed the offense and is not more than 5 years older than the victim.

(*ii*) The individual was 13 years of age or older but less than 17 years of age when he or she committed the offense and is not more than 3 years older than the victim.

(b) An individual who was charged under section 520b, 520c, or 520d of the Michigan penal code, 1931 PA 328, MCL 750.520b, 750.520c, and 750.520d, with committing, attempting to commit, or conspiring to commit a violation solely described in section 520b(1)(a), 520c(1)(a), or 520d(1)(a) of the Michigan penal code, 1931 PA 328, MCL 750.520b, 750.520c, and 750.520d, and is convicted as a juvenile of violating, attempting to violate, or conspiring to violate section 520e or 520g of the Michigan penal code, 1931 PA 328, MCL 750.520e and 750.520g, if either of the following applies:

(*i*) The individual was under 13 years of age when he or she committed the offense and is not more than 5 years older than the victim.

(*ii*) The individual was 13 years of age or older but less than 17 years of age when he or she committed the offense and is not more than 3 years older than the victim.

(c) An individual who has successfully completed his or her probationary period under sections 11 to 15 of chapter II for committing a listed offense and has been discharged from youthful trainee status.

(d) An individual convicted of committing or attempting to commit a violation solely described in section 520e(1)(a) of the Michigan penal code, 1931 PA 328, MCL 750.520e, who at the time of the violation was 17 years of age or older but less than 21 years of age and who is not more than 5 years older than the victim.

(2) An individual who is convicted of more than 1 offense described in subsection (1) is ineligible for exemption under this section.

History: Add. 2005, Act 121, Eff. Jan. 1, 2006.

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MICHIGAN AMBER ALERT ACT
Act 712 of 2002

AN ACT to prescribe the Amber alert of Michigan as the official response to reports of child abductions; to prohibit certain conduct; and to prescribe penalties.

History: 2002, Act 712, Imd. Eff. Dec. 30, 2002;—Am. 2005, Act 205, Eff. Feb. 1, 2006.

The People of the State of Michigan enact:

28.751 Short title.

Sec. 1. This act shall be known and may be cited as the “Michigan Amber alert act”.

History: 2002, Act 712, Imd. Eff. Dec. 30, 2002.

28.752 Michigan Amber alert plan; establishment; design.

Sec. 2. (1) The department of state police shall establish and maintain the Michigan Amber alert plan.

(2) The Michigan Amber alert plan shall be designed to rapidly disseminate useful information in a predetermined manner to radio and television stations within this state.

History: 2002, Act 712, Imd. Eff. Dec. 30, 2002.

28.753 Activation.

Sec. 3. The Michigan Amber alert plan shall be activated only in accordance with the policies established by the department of state police.

History: 2002, Act 712, Imd. Eff. Dec. 30, 2002.

28.754 False report of abducted or missing child; violation; penalty; order for payment of costs; definitions.

Sec. 4. (1) A person shall not intentionally make a false report of the abduction of a child, or intentionally cause a false report of the abduction of a child to be made, to a peace officer, police agency of this state or of a local unit of government, 9-1-1 operator, or any other governmental employee or contractor or employee of a contractor who is authorized to receive the report, knowing the report is false. A person who violates this subsection is guilty of a felony punishable by imprisonment for not more than 4 years or a fine of not more than $2,000.00, or both.

(2) A person shall not intentionally make a false report that a child is missing who suffers from severe mental or physical disability that greatly impairs the child's ability to care for himself or herself, or intentionally cause such a report to be made, to a peace officer, police agency of this state or of a local unit of government, 9-1-1 operator, or any other governmental employee or contractor or employee of a contractor who is authorized to receive the report, knowing the report is false. A person who violates this subsection is guilty of a misdemeanor punishable by imprisonment for not more than 1 year or a fine of not more than $1,000.00, or both.

(3) The court may order a person convicted under this section to pay to the state or a local unit of government and the media the costs of responding to the false report or threat including, but not limited to, use of police or fire emergency response vehicles and teams, pursuant to section 1f of chapter IX of the code of criminal procedure, 1927 PA 175, MCL 769.1f, unless otherwise expressly provided for in this section.

(4) If the person ordered to pay costs under subsection (3) is a juvenile under the jurisdiction of the family division of the circuit court under chapter 10 of the revised judicature act of 1961, 1961 PA 236, MCL 600.1001 to 600.1043, all of the following apply:

(a) If the court determines that the juvenile is or will be unable to pay all of the costs ordered, after notice to the juvenile's parent or parents and an opportunity for the parent or parents to be heard, the court may order the parent or parents having supervisory responsibility for the juvenile, at the time of the acts upon which the order is based, to pay any portion of the costs ordered that is outstanding. An order under this subsection does not relieve the juvenile of his or her obligation to pay the costs as ordered, but the amount owed by the juvenile shall be offset by any amount paid by his or her parent. As used in this subsection, "parent" does not include a foster parent.

(b) If the court orders a parent to pay costs under subdivision (a), the court shall take into account the financial resources of the parent and the burden that the payment of the costs will impose, with due regard to any other moral or legal financial obligations that the parent may have. If a parent is required to pay the costs under subdivision (a), the court shall provide for payment to be made in specified installments and within a specified period of time.

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(c) A parent who has been ordered to pay the costs under subdivision (a) may petition the court for a modification of the amount of the costs owed by the parent or for a cancellation of any unpaid portion of the parent's obligation. The court shall cancel all or part of the parent's obligation due if the court determines that payment of the amount due will impose a manifest hardship on the parent.

(5) As used in this section:

(a) "Local unit of government" means:

(*i*) A city, village, township, or county.

(*ii*) A local or intermediate school district.

(*iii*) A public school academy.

(*iv*) A community college.

(b) "State" includes, but is not limited to, a state institution of higher education.

History: Add. 2005, Act 205, Eff. Feb. 1, 2006.

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CHILD ABDUCTION BROADCAST ACT
Act 713 of 2002

AN ACT to provide for the broadcast of information concerning a child abduction on radio and television stations; and to prescribe the content of the information broadcast.

History: 2002, Act 713, Imd. Eff. Dec. 30, 2002.

The People of the State of Michigan enact:

28.761 Short title.

Sec. 1. This act shall be known and may be cited as the "child abduction broadcast act".

History: 2002, Act 713, Imd. Eff. Dec. 30, 2002.

28.762 Child abduction; broadcast.

Sec. 2. A radio or television station receiving information concerning a child abduction from the Michigan state police pursuant to the Amber alert of Michigan act may broadcast that information in any manner designed to assist in the location of the abducted child or apprehension of any suspect.

History: 2002, Act 713, Imd. Eff. Dec. 30, 2002.

28.763 Information to be broadcast.

Sec. 3. The information to be broadcast by a radio or television station under section 2 includes all of the information provided by the Michigan state police.

History: 2002, Act 713, Imd. Eff. Dec. 30, 2002.

28.764 Radio and television stations to which information provided; method.

Sec. 4. The information shall be provided to predetermined radio and television stations by a method agreed to by the Michigan state police and the Michigan association of broadcasters.

History: 2002, Act 713, Imd. Eff. Dec. 30, 2002.

28.765 Liability; immunity.

Sec. 5. A radio or television station that accurately broadcasts information concerning a child abduction obtained from the Michigan state police pursuant to the Amber alert of Michigan is immune from any liability based on the broadcast of that information.

History: 2002, Act 713, Imd. Eff. Dec. 30, 2002.

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MICHIGAN LAW ENFORCEMENT OFFICERS MEMORIAL ACT
Act 177 of 2004

AN ACT to create the Michigan law enforcement officers memorial monument fund; to establish a commission to govern the monument fund; to prescribe the purpose of the monument fund; to prescribe the powers and duties of the commission and certain state departments and officers; to provide for penalties; and to provide for dissolution of the commission and monument fund.

History: 2004, Act 177, Imd. Eff. July 1, 2004.

The People of the State of Michigan enact:

28.781 Short title.

Sec. 1. This act shall be known and may be cited as the "Michigan law enforcement officers memorial act".

History: 2004, Act 177, Imd. Eff. July 1, 2004.

28.782 Definitions.

Sec. 2. As used in this act:

(a) "Commission" means the Michigan law enforcement officers memorial monument fund commission created in section 4.

(b) "Law enforcement officer" means that term as defined in section 2 of the commission on law enforcement standards act, 1965 PA 203, MCL 28.602.

(c) "Monument fund" means the Michigan police officers memorial monument fund created in section 3.

(d) "Survivor" means any of the following:

(*i*) A spouse of a law enforcement officer killed on duty.

(*ii*) A parent of a law enforcement officer killed on duty.

(*iii*) A sibling of a law enforcement officer killed on duty.

(*iv*) A child of a law enforcement officer killed on duty.

History: 2004, Act 177, Imd. Eff. July 1, 2004.

28.783 Michigan law enforcement officers memorial monument fund; creation as separate fund; disposition of money and interest accrued.

Sec. 3. The Michigan law enforcement officers memorial monument fund is created as a separate fund in the department of treasury. The state treasurer shall seek appropriate federal tax status for the monument fund. The state treasurer shall credit to the monument fund the money appropriated to the monument fund, money received for the monument fund under section 6, and all interest that accrues on money in the monument fund. The commission may use money in the monument fund as described in this act.

History: 2004, Act 177, Imd. Eff. July 1, 2004.

28.784 Michigan law enforcement officers memorial monument fund commission; membership; appointment; terms; vacancy; removal; meetings; business conducted at public meetings; availability of writings; reimbursement.

Sec. 4. (1) The Michigan law enforcement officers memorial monument fund commission is created as a type II agency in the department of management and budget. The commission is the governing body of the monument fund. The commission shall consist of all of the following:

(a) The state treasurer or his or her designee.

(b) The attorney general or his or her designee.

(c) Five members appointed by the governor as follows:

(*i*) One member who is a police chaplain who has 5 or more years' experience as a police chaplain.

(*ii*) One member nominated by the Michigan state troopers association who is a survivor of an officer of the Michigan state police killed while on duty.

(*iii*) One member nominated by the executive director of the sheriff's association of Michigan who is a survivor of an officer of a county sheriff's department killed while on duty.

(*iv*) One member nominated by the chief of police of a municipal police department of a municipality with a population of more than 500,000 who is a survivor of an officer of that police department killed while on duty.

(*v*) One member nominated by the executive director of the Michigan fraternal order of police who is a survivor of an officer killed while on duty who served with a municipal police department of a municipality

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with a population of 500,000 or less.

(2) Members of the commission appointed under subsection (1)(c) shall serve for terms of 4 years or until a successor is appointed, whichever is later. If a vacancy occurs on the commission, the vacancy shall be filled in the same manner as the original appointment. The governor may remove a member of the commission for incompetency, dereliction of duty, malfeasance, misfeasance, or nonfeasance in office, or any other good cause.

(3) The commission shall initially convene within 6 months after the first deposit of money in the monument fund. The commission shall meet often enough to expedite the completion of the monument as prescribed in section 5. At the first meeting, the commission shall elect from among its members a chairperson and other officers as it considers necessary or appropriate. A majority of the members of the commission constitute a quorum for conducting business.

(4) The commission shall conduct its business at public meetings held in compliance with the open meetings act, 1976 PA 267, MCL 15.261 to 15.275. A writing prepared, owned, used, in the possession of, or retained by the commission in the performance of an official function shall be available to the public in compliance with the freedom of information act, 1976 PA 442, MCL 15.231 to 15.246.

(5) Members of the commission shall serve without compensation. However, members of the commission may be reimbursed for their actual and necessary expenses incurred in the performance of their official duties as members of the commission.

History: 2004, Act 177, Imd. Eff. July 1, 2004.

28.785 Solicitation and selection of design; location.

Sec. 5. (1) The commission shall oversee the financing, design, and construction of a memorial monument dedicated to law enforcement officers from Michigan who died in the line of duty. The commission shall solicit designs for the monument and shall select the final design.

(2) The name of each law enforcement officer who died in the line of duty shall be inscribed on the Michigan law enforcement officers memorial monument.

(3) In consultation with the Michigan capitol park commission, the Michigan law enforcement officers memorial monument shall be located on land under the jurisdiction of the Michigan capitol park commission but shall not be located on the grounds of the state capitol.

History: 2004, Act 177, Imd. Eff. July 1, 2004.

28.786 Grants or gifts; prohibited fund-raising activities.

Sec. 6. (1) The commission may accept on behalf of the monument fund grants or gifts from the federal government, an individual, a public or private corporation, organization, or foundation, or any other source. The acceptance and use of federal funds by the commission does not commit state money and does not obligate the legislature to continue the purposes for which federal money is made available. The commission shall transmit money received under this section to the state treasurer for deposit in the monument fund.

(2) A person shall not solicit or collect money for the monument fund through the use of telemarketing.

(3) A person shall not conduct any fund-raising activities in the name of the Michigan law enforcement officers memorial monument fund without prior written approval from the Michigan law enforcement officers memorial monument fund commission.

(4) A person shall not use the name or logo of the Michigan law enforcement officers memorial monument fund or commission in any fund-raising activity without prior written approval of the commission.

(5) A person who violates subsection (2), (3), or (4) is guilty of a misdemeanor for each separate violation, punishable by imprisonment for not more than 1 year or a fine of not more than $1,000.00, or both.

History: 2004, Act 177, Imd. Eff. July 1, 2004.

28.787 Dissolution of commission; use of remaining funds.

Sec. 7. After the completion of construction of the monument pursuant to section 5 and payment of all amounts due in connection with the monument, the commission is dissolved. Any balance remaining in the monument fund shall be used to maintain the Michigan law enforcement officers memorial monument.

History: 2004, Act 177, Imd. Eff. July 1, 2004.

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