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BILL



ANALYSIS

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Senate Bill 1056 (as introduced 3-29-12)  
Sponsor: Senator Rick Jones  
Committee: Judiciary

*(as passed by the Senate)*

Date Completed: 5-8-12

## **CONTENT**

**The bill would amend the fingerprinting law to do the following:**

- **Refer to the collection of "biometric data", rather than the taking of fingerprint impressions, throughout the law.**
- **Require biometric data to be collected for a misdemeanor for which DNA collection is authorized, in addition to the other offenses described in the law.**
- **Require the Michigan Department of State Police (MSP) to procure and file criminal history information for all people arrested, rather than convicted, within Michigan.**

The bill would define "biometric data" as all of the following:

- Fingerprint images recorded in a manner prescribed by the MSP.
- Palm print images, if the arresting law enforcement agency has the electronic capability to record them in a manner prescribed by the MSP.
- Digital images recorded during the arrest or booking process, including full-face capture, left and right profile, and scars, marks, and tattoos, if the arresting agency has the electronic capability to record the images in a manner prescribed by the MSP.
- All descriptive data associated with identifying marks, scars, amputations, and tattoos.

The bill would delete the law's definition of "fingerprint impressions", which means images recorded in a manner prescribed by the MSP.

### **Fingerprints & Biometric Data**

The fingerprinting law requires a person's fingerprints to be taken upon arrest for any of the following:

- A felony.
- A misdemeanor violation of State law for which the maximum penalty exceeds 92 days' imprisonment and/or a \$1,000 fine.
- Criminal contempt for violating a domestic violence or stalking personal protection order (PPO).
- Violation of a foreign protection order that meets the conditions for validity in the Revised Judicature Act.
- A juvenile offense, other than one for which the maximum penalty does not exceed 92 days' imprisonment and/or a \$1,000 fine.

The fingerprints must be forwarded to the MSP within 72 hours. A person's fingerprints also must be taken if he or she is arrested for a misdemeanor for which the maximum penalty is

93 days or for criminal contempt for violating a PPO enjoining domestic violence or stalking, if the person's prints have not previously been taken and forwarded, or if a person is arrested for violating a local ordinance for which the maximum penalty is 93 days' imprisonment and that substantially corresponds to a State violation with that maximum penalty. If the person is convicted of any violation, fingerprints must be taken before sentencing, if not previously taken, and forwarded to the MSP within 72 hours. The law also allows an arresting law enforcement agency to take and forward a person's fingerprints upon arrest for other misdemeanors.

The bill would require the arresting law enforcement agency to collect and forward the arrested person's biometric data, rather than requiring the agency to take and forward his or her fingerprints.

#### Additional Violation

In addition to the offenses described above, the bill would require the collection of biometric data from a person arrested for a misdemeanor, or a juvenile arrested for a juvenile offense that would be a misdemeanor if committed by an adult, for which DNA collection is authorized under the DNA Identification Profiling System Act. (That Act requires the MSP to retain permanently a DNA identification profile of individuals convicted of a felony or certain misdemeanors. The misdemeanors are enticing a child for immoral purposes; being a disorderly person by window peeping, engaging in indecent or obscene conduct in public, or loitering in a house of prostitution; indecent exposure; a first or second prostitution violation; leasing a house for purposes of prostitution; and the presence of a female under the age of 17 in a house of prostitution.)

#### MSP Retention of Info

Under the fingerprinting law, the commanding officer (the MSP employee in charge of the Criminal Justice Information Center or its successor unit) is required to procure and file, for purposes of criminal identification, criminal history record information on all individuals who have been *convicted* within Michigan of a felony or misdemeanor, or of criminal contempt for violating a PPO enjoining domestic violence or stalking or a foreign protection order.

The bill would require the commanding officer to procure and file that information for all people *arrested* within Michigan for any of those violations. Also, under the bill, "commanding officer" would mean the MSP Director.

MCL 28.241a et al.

Legislative Analyst: Patrick Affholter

#### **FISCAL IMPACT**

The bill would have no fiscal impact on State or local government. The bill would put into statute what has been law enforcement practice for the last several years by most agencies in the State: the forwarding of certain palm print images and digital images along with fingerprint images as part of a "biometric" package to the Department of State Police for analysis and inclusion in the State criminal records information system. While there are eight counties in the State (Alpena, Arenac, Baraga, Houghton, Luce, Montmorency, Otsego, and St. Joseph) that do not yet take and submit palm prints to the State Police, "biometric data" within the bill is defined to include palm print images (and digital images) for only those agencies with the capability of recording them.

Fiscal Analyst: Bruce Baker

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This analysis was prepared by nonpartisan Senate staff for use by the Senate in its deliberations and does not constitute an official statement of legislative intent.