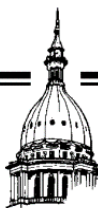




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BILL ANALYSIS



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Senate Bills 411 and 412 (as introduced 6-4-13)
Sponsor: Senator Tonya Schuitmaker
Committee: Judiciary

Date Completed: 6-11-13

CONTENT

Senate Bill 411 would amend the Commission on Law Enforcement Standards Act to do the following:

- Codify the 17-member Michigan Commission on Law Enforcement Standards (MCOLES), which was created by an Executive Reorganization Order.
- Revise provisions that require the Commission to establish law enforcement officer minimum standards.
- Require MCOLES to grant a license, rather than certification, to a person who meets the law enforcement officer minimum standards and would be employed as a law enforcement officer.
- Require MCOLES to promulgate rules requiring mandatory revocation of a law enforcement officer license under certain circumstances and allowing for suspension of a license under certain circumstances.
- Specify that a petition for judicial review of a final decision or order of MCOLES would be the Circuit Court for Ingham County, and that the Commission would have standing in that court for an action to compel compliance with the Act.
- Revise provisions pertaining to the Law Enforcement Officers Training Fund.
- Require a licensed law enforcement officer and others to inform MCOLES when a licensed law enforcement officer was charged with a particular

offense or was subject to a personal protection order.

- Require MCOLES to promulgate rules establishing minimum standards for background investigations; and require an employing agency to conduct a thorough background investigation before employing an applicant.
- Allow reasonable fees to be charged to cover actual costs of an employer in conducting a background investigation.

The bill also would rename the Act as the "Michigan Commission on Law Enforcement Standards Act".

Senate Bill 412 would amend Public Act 302 of 1982, which created the Michigan Justice Training Commission and the Michigan Justice Training Fund, to do the following:

- Delete and replace most of the provisions of the Act, regarding use of the Michigan Justice Training Fund.
- Require MCOLES to pay law enforcement distributions to law enforcement agencies, and allow those agencies to spend and return those funds as specified in the bill.
- Allow MCOLES to distribute grant awards to grant recipients for certain purposes.
- Require MCOLES annually to spend an amount from the Fund to cover its reasonable expenses for staff and

- for actual expenses incurred by Commission members.
- Require law enforcement agencies and grant recipients to report to MCOLES on expenditures of the funds received from the Fund.
- Require criminal justice in-service training courses to be registered through the MCOLES Information and Tracking Network.
- Specify that the MCOLES books, records, and accounts pertaining to the Fund could be subject to audit every five years.

Senate Bill 412 is tie-barred to Senate Bill 411.

Senate Bill 411

Commission on Law Enforcement Standards

The Commission on Law Enforcement Standards Act provides for an 11-member Commission on Law Enforcement Standards. Executive Reorganization Order (ERO) 2001-2 provides for a 17-member Michigan Commission on Law Enforcement Standards. The bill essentially would amend the statute to reflect MCOLES membership as reflected in ERO 2001-2. The ERO, however, includes on the Commission the chief of a police department of a city that has a population of more than 750,000, or the chief's designee who is a command officer within that department. The bill would refer to a city with a population of more than 600,000. (Detroit is the only Michigan city with a population of more than 600,000, and no longer has a population over 750,000.)

In addition, the bill would include on MCOLES one individual selected from a list of at least three individuals submitted by a police association representing officers employed by a police agency employing more than 14% of the police officers in Michigan. The ERO includes such a member but refers to a police agency employing more than 15% of the police officers in Michigan.

The bill would delete a provision specifying that the Commission does not have the right to exercise any portion of the sovereign power of the State.

The Act requires the Commission to establish its own procedures and

requirements with respect to quorum, place and conduct of its meetings, and other matters. The bill specifies that the Commission also could establish other procedures and requirements governing its operations to carry out the intent of the Act.

The Commission must 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 training programs. The bill also would require the report to include any other information the Governor requested or the Commission considered appropriate.

Law Enforcement Officer Minimum Standards

The Act requires the Commission to promulgate rules to establish law enforcement officer minimum standards. The bill would delete a provision specifying that those 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.

The Act requires the law enforcement officer minimum standards to include the following:

- Minimum standards of physical, educational, mental, and moral fitness that govern the recruitment, selection, appointment, and certification of law enforcement officers.
- Minimum courses of study, attendance requirements, and instruction hours required at approved police training schools.
- Minimum basic training requirements that a person, excluding sheriffs, must complete before being eligible for certification.

The bill, instead, would require the standards to include the following:

- Minimum standards of physical, educational, psychological, and moral fitness governing the recruitment, selection, appointment, and certification of law enforcement officers.
- Minimum educational requirements that could be met by either courses of study, attendance requirements, and instructional hours at approved law

enforcement training academies, or successful completion of a recognition of prior basic law enforcement training and experience program for granting a waiver from the minimum standards.

- Minimum proficiency on a licensing examination administered after completion of the law enforcement minimum standard educational requirements.

Law Enforcement Licensure

The bill specifies that a person could not be employed as a law enforcement officer in Michigan unless he or she were licensed under the Act. A person licensed under the Act and employed as a law enforcement officer could exercise the law enforcement authority conferred by the law under which he or she was employed as a law enforcement officer.

"Law enforcement officer" would mean a person employed by a law enforcement agency as one of the following:

- A person authorized by law, including common law, to prevent and detect crime and enforce the general criminal laws of the State, but not including a person serving solely because he or she occupies any other office or position.
- A law enforcement officer of a Michigan Indian tribal police force.
- The Sergeant at Arms or any assistant Sergeant at Arms of the Senate or House of Representatives who is commissioned as a police officer by that respective house of the Legislature.
- A law enforcement officer of a multicounty metropolitan district.
- A county prosecuting attorney's investigator sworn and empowered by the county sheriff.
- A fire arson investigator from a fire department within a city with a population of at least 600,000 who is sworn and fully empowered by the city's chief of police.
- Officers and investigators appointed by State departments represented on the Michigan Highway Reciprocity Board.
- A superintendent, watchperson, or guard appointed under Public Act 80 of 1905.
- A commissioner or officer of the Michigan State Police.
- A conservation officer appointed by the Michigan State Police.
- An officer appointed by a public body as provided under the Public Body Law Enforcement Agency Act.
- A general law township constable appointed to perform both statutory criminal and civil duties under Chapter 16 of the Revised Statutes of 1846.
- An officer appointed to a general law township police department under Public Act 33 of 1951.
- A marshal, policeman, watchman, or officer appointed to a charter township police force as provided under the Charter Township Act.
- A park ranger appointed by a county or regional parks and recreation commission.
- An elected county sheriff.
- An undersheriff or deputy sheriff.
- A police officer appointed by a general law village under the General Law Village Act.
- A police officer appointed by a home rule village under the Home Rule Village Act.
- A marshal appointed to serve as chief of police of a fourth class city as provided under the Fourth Class City Act.
- A constable appointed by a fourth class city under the Fourth Class City Act.
- A police chief, policeman, or night watchman appointed by a fourth class city as provided under the Fourth Class City Act.
- A police officer or constable appointed by a home rule city as provided under the Home Rule City Act.
- An airport law enforcement officer, guard, or police officer appointed by a public airport authority as provided under the Aeronautics Code.
- A conservation officer appointed by the Director of the Department of Natural Resources.
- A public safety officer appointed to a department of public safety as provided under the Revised School Code.
- A public safety officer appointed by a community college under the Community College Act.
- A public safety officer appointed by the board of control of Saginaw Valley State University under Public Act 278 of 1965.
- A public safety officer appointed by the board of control of a higher education institution under Public Act 20 of 1990.
- An investigator appointed by the Attorney General under either the Medicaid False Claim Act or the Health Care False Claim Act.

- A railroad police officer acting as provided under the Railroad Code and subject to training requirements under that Code.
- An inspector appointed by the State Transportation Commission as provided under the Motor Carrier Act.
- A law enforcement officer licensed under the Commission on Law Enforcement Standards Act whose duties are performed in conjunction with a joinder of two or more municipal corporations under Public Act 35 of 1951, or an interlocal agreement entered into under Public Act 7 of the Extra Session of 1967, or a transfer of functions or responsibilities under Public Act 8 of the Extra Session of 1967.
- A law enforcement officer licensed under the Commission on Law Enforcement Standards Act whose duties have been transferred to an authority and who is given a comparable position of employment with that authority as provided under Public Act 8 of the Extra Session of 1967.

"Law enforcement agency" would mean an entity that is established and maintained in accordance with the laws of the State and is authorized by State law to appoint or employ law enforcement officers.

The Act requires the Commission to 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. The bill, instead, would require the Commission to grant a license to a person who met the law enforcement officer minimum standards and would be employed as a law enforcement officer upon being licensed. A license would remain valid until it was rendered void by court order or other operation of law, was revoked or suspended under the Act, or lapsed under the conditions described below.

A license would lapse if the person, after being employed as a law enforcement officer in aggregate for fewer than 2,080 hours, then was continuously not employed as a law enforcement officer for one year. A license also would lapse if the person, after being employed as a law enforcement officer in aggregate for 2,080 hours or longer, was continuously not employed as a law enforcement officer for two years. In either case, the person could not be relicensed

unless he or she met the law enforcement officer minimum standards or was appointed or elected to the office of sheriff.

The Act requires MCOLES to grant certification to a person who was employed as a law enforcement officer before January 1, 1977, and who failed to meet the law enforcement officer minimum standards if the person was authorized to be employed as a law enforcement officer. The bill instead would require the Commission to grant a license to a person who was employed as a law enforcement officer before January 1, 1977, and who would be employed as a law enforcement officer upon being licensed, without regard to whether he or she met the law enforcement officer minimum standards. A license granted under this provision would remain valid until it was rendered void by a court order or by other operation of law, was revoked or suspended under the Act, or lapsed as described above.

Currently, MCOLES must grant certification to an elected sheriff, and that certification remains valid only while he or she is in office. The bill instead would require the Commission to grant a license to an elected or appointed sheriff without regard to whether he or she met the law enforcement officer minimum standards. A license granted to a sheriff under those conditions would remain valid until any of the following occurred:

- The person no longer held office as a sheriff.
- The license was rendered void by a court order or by other operation of law.
- The license was revoked or suspended as provided under the Act.

Revocation/Suspension of License

The Act requires MCOLES to promulgate rules that provide for the revocation of certification of a law enforcement officer for certain actions. The bill, instead, would require the Commission to promulgate rules requiring mandatory revocation of a law enforcement officer license for one or more of the following:

- Obtaining a license because the officer or another person made a materially false statement or committed fraud in an affidavit, disclosure, or application to a

training academy, the Commission, or a law enforcement agency at any stage of recruitment, selection, appointment, enrollment, training, or licensure.

- An adjudication of guilt for any violation or attempted violation of a penal law of this State, another state, a military court, a tribal court, a political subdivision of this State or another state, the United States, or another country, that was punishable by imprisonment for more than two years.

The Commission also would have to promulgate rules that would allow revocation of a law enforcement officer license if the licensee were subject to an adjudication of guilt for any violation or attempted violation of a penal law of this State, another state, a military court, a tribal court, a political subdivision of this State or another state, the United States, or another country, if registration as a sex offender were required or if an element of the offense were any of the following:

- Dishonesty, a false statement, or theft.
- Assault, battery, or threatening, intimidating, or harassing behavior directed toward an individual.
- An act or omission causing personal injury to an individual.
- The use or possession of, or conspiracy to use or possess, any Schedule 1 or 2 controlled substance.
- Willful neglect of duty as a law enforcement officer.
- Resisting or obstructing a law enforcement officer or other public official in the discharge of his or her duty.

The Commission would have to initiate administrative license revocation proceedings, including issuing an order of summary suspension and notice of intent to revoke, upon being given notice of facts warranting revocation. The Commission would not have to delay or abate license revocation proceedings based on an adjudication of guilt if that adjudication were appealed.

The Commission also would have to promulgate rules allowing suspension of a law enforcement officer license for one or more of the following:

- Being charged with a criminal offense that was punishable by imprisonment for more than two years and that MCOLES determined posed a threat to public health, safety, and welfare.
- Seeking, obtaining, or maintaining employment with a different law enforcement agency after being suspended by a law enforcement agency with which he or she was employed, as a result of being charged with an offense subjecting the license to revocation.

An order of suspension would have to specify the conditions under which the license would be reinstated.

If the Commission issued a final decision or order to revoke or suspend a law enforcement officer's license, that decision or order would be subject to judicial review as provided in the Administrative Procedures Act (APA). A summary suspension would not be a final decision or order for purposes of this provision.

The Commission could issue a subpoena in a contested case to revoke or suspend a law enforcement officer's license. The subpoena would have to be issued as provided under the APA.

Judicial Review

Currently, MCOLES is authorized to investigate alleged violations of the Commission on Law Enforcement Standards Act or rules promulgated under it. The Commission may hold hearings, administer oaths, issue subpoenas, and order testimony to be taken at a hearing or by deposition. A final decision or order is subject to judicial review as provided under the APA. The bill specifies that a petition for judicial review of a final decision or order of the Commission could be adjudicated only in the Circuit Court for Ingham County.

Under the bill, the Commission also would have standing to commence an action in the Circuit Court for Ingham County to compel compliance with the Act or an administrative rule promulgated under it.

Training Fund

The Act created the Law Enforcement Officers Training Fund, from which the Legislature must appropriate amounts

considered necessary for the purposes of the Act. The bill would rename the Fund as the "Law Enforcement Officers Training to Locals Fund". The bill also specifies that the Commission could use money from the Fund for the reasonable expenses of administering it.

The State Treasurer must pay annual appropriations from the Fund to reimburse an amount that does not exceed the training costs incurred for each officer meeting the recruitment standards prescribed under the Act during the period covered by the allocation, plus an amount not exceeding the necessary living expenses incurred by the officer due to training that requires him or her be away from home overnight. Those amounts also must be paid for the maintenance and administration of law enforcement officer testing and certification under the Act. The bill would delete these provisions.

Under the bill, MCOLES annually could spend an amount from the Fund to cover the following:

- The reasonable expenses of providing staff services to the Commission for administering the Fund and performing and enforcing the statutory requirements of the Act.
- Upon certification of the Commission's executive director, reimbursement to law enforcement agencies in an amount not to exceed the training costs incurred for each law enforcement officer meeting the law enforcement officer minimum standards prescribed under the Act during the period covered by the allocation.

Reporting of Offenses & PPOs

The bill would require a licensed law enforcement officer to inform MCOLES, promptly and in writing, if he or she were charged with any offense for which a law enforcement officer license could be revoked or suspended. A licensee also would have to inform the Commission if he or she were the subject of a personal protection order.

If law enforcement agency had knowledge that a licensed law enforcement officer it employed was charged with an offense for which revocation or suspension could apply or was subject to a personal protection

order, the agency would have to report the information promptly to MCOLES. A county prosecuting attorney who had that knowledge also would have to report it promptly to the Commission.

Background Investigations

The bill would require MCOLES to promulgate rules establishing minimum standards for conducting employer background investigations. The rules would have to specify a form that employing agencies could use to document the findings of background investigations. Before employing an applicant, the employing agency would have to conduct a thorough background investigation in accordance with those rules. The investigation would have to include information about the applicant's previous separations from employment or appointment, as represented by the applicant. This would include any firing, termination, resignation, retirement, or voluntary or involuntary extended leave of absence. The employing agency would have to maintain documentation of the background investigation for a period consistent with its record retention schedules, and that documentation would have to be signed by the agency's administrator or his or her designee.

Before employing an applicant, an authorized representative of the employing agency would have to execute and maintain an affidavit of compliance on a form provided by MCOLES, attesting to compliance with the rules it promulgated concerning background investigations. The affidavit would have to include conspicuous language that intentional false execution of the affidavit by the agency's authorized representative would constitute perjury.

Before conducting a background investigation, an employing agency would have to acquire an authorization and release from an applicant. The agency would have to use a Commission-approved authorization and release form that did both of the following:

- Authorized the applicant's current or former employers to disclose, in good faith, any substantiated unprofessional conduct by the applicant and to give the requesting party copies of all documents in the employee's personnel record

maintained by current or former employers relating to good-faith disclosures of unprofessional conduct.

- Released the current or former employers, and employees acting on their behalf, from any liability for good-faith disclosure of substantiated unprofessional conduct, and waived written notice required under the Employee Right to Know Act.

An employer could not employ an applicant who refused to sign the authorization and release.

Within 45 calendar days after receiving a request, an employer would have to provide the information requested and make available copies of all documents in the employee's personnel record relating to substantiated unprofessional conduct. An employer, employee, or agent acting on the employer's behalf, who disclosed information in good faith, would be immune from civil liability for the disclosure. Good faith would be presumed unless a preponderance of the evidence established that the employer knew that the information was false or misleading and was disclosed with a reckless disregard for the truth, or the disclosure was prohibited by State or Federal law.

The information received in a disclosure could be used only for the purposes of determining suitability for law enforcement employment and licensure. It could not be disclosed to any person not directly involved with the employer or the Commission evaluation process, unless disclosure was required by law or court order.

Reasonable fees could be charged to cover actual costs of the employer in copying and furnishing documents to a law enforcement agency conducting a background investigation on an applicant for employment as a law enforcement officer.

Senate Bill 412

Justice Training Fund

Public Act 302 of 1982 created the Michigan Justice Training Commission and the Michigan Justice Training Fund. That Commission and Fund were transferred to MCOLES under ERO 2001-2. The bill would delete and replace the bulk of Public Act 302.

Money from the Michigan Justice Training Fund could be used only as provided under the bill. Funds from law enforcement distributions that were required to be returned to the Fund would have to be deposited into it and could be used only for law enforcement distributions. Funds distributed as grant awards that were required to be returned to the Fund would have to be deposited into it and could be used only for grant awards. Investment earnings from Fund assets would have to be deposited into the Fund.

Law Enforcement Distributions

Under the bill, MCOLES would have to pay law enforcement distributions, and law enforcement agencies could spend and return those distributions, as described below.

The Commission annually could distribute 60% of the Fund, in two semiannual installments, on dates the Commission determined. In calculating the law enforcement distribution, MCOLES would have to include undistributed portions of the Fund and funds that had been returned to it, as provided in the bill. The amount of available funds would have to be based on Fund balances determined as of March 31 and September 30 of each year. Law enforcement distributions would have to be paid on a per capita basis calculated as described below.

The Commission would have to conduct an annual registration of law enforcement officers to verify the number of hours actually compensated by the jurisdiction, not to exceed 2,080 hours per year, for each full-time and part-time law enforcement officer during the most recent elapsed calendar year. The per capita basis would have to be determined by dividing the total number of hours the jurisdiction actually compensated by 2,080, rounded down to the nearest whole number. Each eligible law enforcement agency would receive a minimum annual distribution of \$500.

The Commission would have to pay a law enforcement distribution to the unit of government or other employing or appointing entity with which a law enforcement agency was affiliated, for the benefit of that agency.

A law enforcement agency receiving a distribution could spend it only for travel costs, training that was designed and intended to enhance the direct delivery of criminal justice services by law enforcement officers, and direct costs including all of the following:

- Regular hourly personnel rate for salaries of instructors for actual time spent developing, preparing, and delivering training.
- Actual cost of training materials necessary to, and used for, the direct delivery of training.
- Reasonable rental cost or purchase price of equipment items necessary to and used solely for the direct delivery of training, but not more than \$5,000 or 10% of an agency's annual distribution for an equipment purchase without the Commission's prior written approval.
- Rental of training facilities, but only if adequate facilities owned or operated by the law enforcement agency were not available.
- A flat rate, tuition, or subscription paid to a training provider, other than the law enforcement agency, for the delivery of criminal justice training.

A law enforcement agency could spend funds from a law enforcement distribution for travel costs incurred to participate in a criminal justice training program, excluding out-of-State student travel reimbursements, only for the following:

- A program offering training for which expenditures of law enforcement distributions were authorized under the Act and the training was conducted for at least six hours within any 24-hour period.
- Tuition costs for in-State and out-of-State training, if the training course were registered through the MCOLES Information and Tracking Network before the dates on which the training was conducted.
- Registration costs for out-of-State conferences and conventions, if the law enforcement agency submitted a special use request to MCOLES and it approved the expenditure before attendance.
- Instructor travel reimbursement under rates published by the Michigan Department of Technology,

Management, and Budget (DTMB), or its successor agency.

- In-State training participant travel reimbursement, if the training were registered through the MCOLES Information and Tracking Network before the dates on which training was conducted, under rates published by the DTMB or its successor agency.

A law enforcement agency could spend funds from a law enforcement distribution for out-of-State training participant travel reimbursement only if all of the following were met:

- The travel was for the purpose of participating in a learning experience produced through reading, listening, observing, problem-solving, or interacting with others, the object of which was the introduction or enhancement of knowledge, skills, and judgment directly related to assigned or assignable professional criminal justice tasks.
- The travel was required to obtain or maintain skills or certification in a field of specialization related to the execution of duties provided to the general public or related to administrative duties that enhanced the ability of law enforcement officers to perform duties provided to the general public.
- The certification in a field of specialization was not available in Michigan.
- The course could not be conducted in Michigan.
- The course was approved by the Commission and registered through the MCOLES Information and Tracking Network before the dates on which the training was conducted.

A law enforcement agency receiving a law enforcement distribution could not spend it for either training individuals who were not law enforcement officers or travel expenditures in excess of or in violation of the expenditure rates authorized for members of the State Classified Civil Service published by the DTMB.

A law enforcement agency that received a distribution would have to maintain records of distribution revenue and expenditures separate from other funding sources.

If MCOLES determined that a law enforcement agency had spent a distribution for costs not allowed under the Act, it could declare the agency ineligible to receive further distributions for a period the Commission determined. The funds spent in violation of the Act would have to be returned to the Fund.

A law enforcement agency receiving a distribution would have to spend the entire distribution within two years after receiving it. If the agency failed to do so, it would not be eligible to receive further distributions until the entire distribution was spent and reported as prescribed by the Commission.

Beginning with the distribution period immediately following the bill's effective date, the portions of any law enforcement distribution that had not been spent within five years after the date they were received would have to be returned to the Fund immediately.

A law enforcement agency that was no longer operating immediately would have to give MCOLES a final accounting of expenditures of law enforcement distribution funds it had received for all years since it last reported. The agency would have to return unspent distribution funds in the manner prescribed by the Commission. Returned funds would have to be segregated and could be used only for law enforcement distributions.

A grant recipient that was no longer operating immediately would have to give MCOLES a final accounting of all law enforcement distribution funds paid to it by law enforcement agencies for the purpose of providing training, for all years since it last reported. The recipient would have to return law enforcement distribution funds for which it had not provided training, as prescribed by the Commission. Returned funds would have to be segregated and could be used only for law enforcement distributions.

Grant Awards

The bill would authorize MCOLES to distribute grant awards, and require grant recipients to spend grant funds, as described. The Commission could distribute grant awards after making law enforcement distributions described above and paying for

its administration expenses and actual expenses incurred by its members.

The Commission could distribute grant awards subject to written conditions provided to grant recipients before or at the time the awards were distributed. A grant recipient could petition MCOLES in writing for forbearance or other relief from conditions it imposed upon the distribution of a grant.

"Grant recipient" would mean an entity eligible to receive grants from the Michigan Justice Training Fund, including the following:

- An agency, department, division, bureau, board, commission, council, or authority of the State or of a city, village, township, or county.
- A State-supported college or university.
- A community college.
- Any agency or entity of the judicial branch of State government.
- A consortium or other joint venture composed of or entered into by an entity described above.

The Commission could distribute grant awards only to grant recipients and could not distribute them to a professional association. A recipient could spend grant money only for the following:

- Training designed and intended to enhance the direct delivery of criminal justice services by the recipient's employees or by employees of entities that were eligible to receive grants under the Act.
- Training presented by a recipient or by a contractual service provider retained by a recipient.
- The actual costs of training materials necessary to, and used for, the direct delivery of training.
- The reasonable rental costs or purchase price of equipment items necessary to, and used solely for, the direct delivery of training.
- The reasonable hourly salaries of instructors and developers for actual time spent developing, preparing, and delivering training.

A grant recipient could not spend grant funds for either of the following:

- Travel expenditures in excess of the rates authorized for members of the State Classified Civil Service published by the DTMB.
- Travel costs incurred to participate in a criminal justice in-service training program, unless the program were solely for training for which the expenditure of grant funds was authorized under the Act.

("Criminal justice in-service training" would mean a criminal justice program that includes education or training designed and intended to enhance the direct delivery of criminal justice services by eligible training participants.)

A grant recipient would have to maintain records of grant award revenue and expenditures separate from other funding sources.

If MCOLES determined that a grant recipient had spent grant funds for the payment of unreasonable costs or costs not authorized under the Act, the grant funds would have to be returned to the Fund and could be used only for grant awards.

Grant recipients would have to submit applications for grant awards to MCOLES in the manner prescribed by the Commission, which would have to publish application procedures on its website.

A grant recipient that was no longer operating immediately would have to give MCOLES a final accounting of all expenses incurred since the last reporting period for which the recipient sought grant funding. The recipient would have to return unspent grant funds as prescribed by the Commission. Returned funds would have to be segregated and could be used only for grants.

Commission Administrative Expenses

The bill would require MCOLES annually to spend an amount from the Fund to cover its reasonable expenses of providing staff services to the Commission for administering the Fund and performing and enforcing the statutory requirements of the Act and the Michigan Commission on Law Enforcement Standards Act. The Commission also would have to spend amounts from the Fund annually for actual

expenses incurred by MCOLES members, including expenditures for travel at rates published by the DTMB for boards and commissions, but excluding expenditures for alcohol.

Reports to the Commission/Registration of Courses

The bill would require each law enforcement agency receiving a law enforcement distribution under the Act, and each grant recipient receiving a grant award under the Act, to report to MCOLES on expenditures of the received funds, in a manner and on intervals determined by the Commission. Each training program financed in whole or in part by a law enforcement distribution or grant from the Fund would have to be identified separately in the report.

Criminal justice in-service training courses would have to be registered through the MCOLES Information and Tracking Network. If a course were not registered through that network, distributions and grants could not be used for the costs of those courses.

Law enforcement agencies and grant recipients would have to report to MCOLES the training participants who attended each training session for which funding was provided in whole or in part by the Act, in a manner prescribed by the Commission.

If MCOLES determined that a grant recipient had failed to comply with the reporting requirements, the Commission could declare the recipient ineligible to receive further grant awards for a period MCOLES determined.

Audit of the Fund

Under the bill, the Commission's books, records, and accounts pertaining to the Michigan Justice Training Fund could be subject to audit by the Auditor General every five years.

The bill would repeal Section 9 of the Act, which required the books, records, and accounts of the Michigan Justice Training Commission to be audited by the Auditor General every two years.

MCL 28.601 et al. (S.B. 411)
18.421 et al. (S.B. 412)

Legislative Analyst: Patrick Affholter

FISCAL IMPACT

The bills would have no fiscal impact on State or local government.

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.