SENATE BILL No. 53

January 24, 2017, Introduced by Senators JONES, HERTEL, SCHUITMAKER and NOFS and referred to the Committee on Judiciary.

A bill to amend 1965 PA 203, entitled "Michigan commission on law enforcement standards act," (MCL 28.601 to 28.615) by adding sections 9e and 9f.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

SECT. 9E. (1) IN ADDITION TO THE EMPLOYMENT HISTORY RECORD REQUIRED TO BE MAINTAINED UNDER SECTIONS 9 AND 9B BY A LAW ENFORCEMENT AGENCY FOR EACH OFFICER IT EMPLOYS AND FOR EACH OFFICER TO WHOM THE CHIEF OF POLICE OF A VILLAGE, CITY, OR TOWNSHIP OR COUNTY SHERIFF HAS ADMINISTERED AN OATH OF OFFICE AS PROVIDED IN SECTION 9C OR 9D, A LAW ENFORCEMENT AGENCY SHALL MAINTAIN A RECORD REGARDING THE REASON OR REASONS FOR, AND CIRCUMSTANCES SURROUNDING, A SEPARATION OF SERVICE FOR EACH LAW ENFORCEMENT OFFICER FOR WHOM THE LAW ENFORCEMENT AGENCY IS REQUIRED TO MAINTAIN AN EMPLOYMENT HISTORY RECORD UNDER THIS ACT WHO SUBSEQUENTLY SEPARATES FROM THE LAW ENFORCEMENT AGENCY OR FROM HIS OR HER EMPLOYMENT AS A LAW
ENFORCEMENT OFFICER REQUIRING THE ADMINISTRATION OF AN OATH OF
OFFICE UNDER SECTION 9C OR 9D.

(2) THE LAW ENFORCEMENT AGENCY SHALL ALLOW A SEPARATING LAW
ENFORCEMENT OFFICER TO REVIEW A RECORD PREPARED UNDER SUBSECTION
(1) UPON THE REQUEST OF THE SEPARATING OFFICER.

(3) IF A SEPARATING LAW ENFORCEMENT OFFICER DISAGREES WITH THE
ACCURACY OF THE CONTENTS OF THE RECORD PREPARED UNDER SUBSECTION
(1), HE OR SHE MAY REQUEST THE CORRECTION OR REMOVAL OF THE PORTION
OF THE RECORD HE OR SHE BELIEVES IS INCORRECT. IF THE LAW
ENFORCEMENT AGENCY AND THE SEPARATING LAW ENFORCEMENT OFFICER
CANNOT REACH AN AGREEMENT ON THE CONTENTS OF THE RECORD PREPARED
UNDER SUBSECTION (1), THE SEPARATING LAW ENFORCEMENT OFFICER MAY
SUBMIT A WRITTEN STATEMENT EXPLAINING THE SEPARATING LAW
ENFORCEMENT OFFICER'S POSITION AND THE BASIS FOR HIS OR HER
DISAGREEMENT. IF A SEPARATING LAW ENFORCEMENT OFFICER SUBMITS A
WRITTEN STATEMENT UNDER THIS SUBSECTION, IT MUST BE KEPT WITH THE
RECORD REQUIRED UNDER SUBSECTION (1) AND PROVIDED WITH THE REST OF
THE CONTENTS OF THE RECORD AS REQUIRED UNDER SECTION 9F.

SEC. 9F. (1) A LAW ENFORCEMENT OFFICER WHO IS LICENSED OR WHO
WAS PREVIOUSLY LICENSED OR CERTIFIED UNDER THIS ACT AND WAS
PREVIOUSLY EMPLOYED AS A LAW ENFORCEMENT OFFICER IN THIS STATE, WHO
SEPARATES FROM HIS OR HER EMPLOYING LAW ENFORCEMENT AGENCY OR FROM
EMPLOYMENT AS A LAW ENFORCEMENT OFFICER TO WHOM AN OATH OF OFFICE
HAS BEEN ADMINISTERED UNDER SECTION 9C OR 9D, AND WHO SUBSEQUENTLY
SEEKS TO BECOME REEMPLOYED AS A LAW ENFORCEMENT OFFICER IN THIS
STATE SHALL PROVIDE TO THE PROSPECTIVE EMPLOYING LAW ENFORCEMENT
AGENCY, UPON OFFER OF EMPLOYMENT, A SIGNED WAIVER. A WAIVER
EXECUTED UNDER THIS SUBSECTION MUST EXPRESSLY ALLOW THE PROSPECTIVE
EMPLOYING LAW ENFORCEMENT AGENCY TO CONTACT THE LAW ENFORCEMENT
OFFICER'S FORMER EMPLOYING LAW ENFORCEMENT AGENCY AND SEEK A COPY
OF THE RECORD REGARDING THE REASON OR REASONS FOR, AND
CIRCUMSTANCES SURROUNDING, HIS OR HER SEPARATION OF SERVICE CREATED
BY HIS OR HER FORMER EMPLOYING LAW ENFORCEMENT AGENCY UNDER SECTION
9E.

(2) A WAIVER UNDER SUBSECTION (1) MUST BE EXECUTED ON A FORM
PROVIDED BY THE COMMISSION TO ALL LAW ENFORCEMENT AGENCIES IN THIS
STATE THAT EMPLOY OR ADMINISTER OATHS OF OFFICE TO LAW ENFORCEMENT
OFFICERS LICENSED UNDER THIS ACT. THE PROSPECTIVE EMPLOYING LAW
ENFORCEMENT AGENCY IS RESPONSIBLE FOR PROVIDING THE WAIVER EXECUTED
UNDER SUBSECTION (1) TO THE FORMER EMPLOYING LAW ENFORCEMENT
AGENCY.

(3) UPON RECEIPT OF THE WAIVER EXECUTED UNDER SUBSECTION (1),
THE FORMER EMPLOYING LAW ENFORCEMENT AGENCY SHALL PROVIDE, ALONG
WITH OTHER INFORMATION REQUIRED OR ALLOWED TO BE PROVIDED BY LAW, A
COPY OF THE RECORD REQUIRED UNDER SECTION 9E TO THE PROSPECTIVE
EMPLOYING LAW ENFORCEMENT AGENCY.

(4) A FORMER EMPLOYING LAW ENFORCEMENT AGENCY THAT DISCLOSES
INFORMATION UNDER THIS SECTION IN GOOD FAITH AFTER RECEIPT OF A
WAIVER EXECUTED UNDER SUBSECTION (1) IS IMMUNE FROM CIVIL LIABILITY
FOR THE DISCLOSURE. A FORMER EMPLOYING LAW ENFORCEMENT AGENCY IS
PRESENTED TO BE ACTING IN GOOD FAITH AT THE TIME OF A DISCLOSURE
UNDER THIS SECTION UNLESS A PREPONDERANCE OF THE EVIDENCE
ESTABLISHES 1 OR MORE OF THE FOLLOWING:

(A) THAT THE FORMER EMPLOYING LAW ENFORCEMENT AGENCY KNEW THE
INFORMATION DISCLOSED WAS FALSE OR MISLEADING.

(B) THAT THE FORMER EMPLOYING LAW ENFORCEMENT AGENCY DISCLOSED THE INFORMATION WITH A RECKLESS DISREGARD FOR THE TRUTH.

(C) THAT THE DISCLOSURE WAS SPECIFICALLY PROHIBITED BY A STATE OR FEDERAL STATUTE.

(5) AS USED IN THIS SECTION, "FORMER EMPLOYING LAW ENFORCEMENT AGENCY" MEANS A LAW ENFORCEMENT AGENCY IN THIS STATE THAT WAS THE EMPLOYER OF A LAW ENFORCEMENT OFFICER LICENSED UNDER THIS ACT, OR A LAW ENFORCEMENT AGENCY THAT ADMINISTERED AN OATH OF OFFICE TO A LAW ENFORCEMENT OFFICER UNDER SECTION 9C OR 9D, AND THAT WAS REQUIRED TO MAINTAIN AN EMPLOYMENT HISTORY RECORD FOR THAT LAW ENFORCEMENT OFFICER UNDER THIS ACT, INCLUDING THE RECORD DESCRIBED IN SECTION 9E.

Enacting section 1. This amendatory act takes effect 90 days after the date it is enacted into law.