

# 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:**

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

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1 ENFORCEMENT OFFICER REQUIRING THE ADMINISTRATION OF AN OATH OF  
2 OFFICE UNDER SECTION 9C OR 9D.

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

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

19 SEC. 9F. (1) A LAW ENFORCEMENT OFFICER WHO IS LICENSED OR WHO  
20 WAS PREVIOUSLY LICENSED OR CERTIFIED UNDER THIS ACT AND WAS  
21 PREVIOUSLY EMPLOYED AS A LAW ENFORCEMENT OFFICER IN THIS STATE, WHO  
22 SEPARATES FROM HIS OR HER EMPLOYING LAW ENFORCEMENT AGENCY OR FROM  
23 EMPLOYMENT AS A LAW ENFORCEMENT OFFICER TO WHOM AN OATH OF OFFICE  
24 HAS BEEN ADMINISTERED UNDER SECTION 9C OR 9D, AND WHO SUBSEQUENTLY  
25 SEEKS TO BECOME REEMPLOYED AS A LAW ENFORCEMENT OFFICER IN THIS  
26 STATE SHALL PROVIDE TO THE PROSPECTIVE EMPLOYING LAW ENFORCEMENT  
27 AGENCY, UPON OFFER OF EMPLOYMENT, A SIGNED WAIVER. A WAIVER

1 EXECUTED UNDER THIS SUBSECTION MUST EXPRESSLY ALLOW THE PROSPECTIVE  
2 EMPLOYING LAW ENFORCEMENT AGENCY TO CONTACT THE LAW ENFORCEMENT  
3 OFFICER'S FORMER EMPLOYING LAW ENFORCEMENT AGENCY AND SEEK A COPY  
4 OF THE RECORD REGARDING THE REASON OR REASONS FOR, AND  
5 CIRCUMSTANCES SURROUNDING, HIS OR HER SEPARATION OF SERVICE CREATED  
6 BY HIS OR HER FORMER EMPLOYING LAW ENFORCEMENT AGENCY UNDER SECTION  
7 9E.

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

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

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

27 (A) THAT THE FORMER EMPLOYING LAW ENFORCEMENT AGENCY KNEW THE

1 INFORMATION DISCLOSED WAS FALSE OR MISLEADING.

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

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

6 (5) AS USED IN THIS SECTION, "FORMER EMPLOYING LAW ENFORCEMENT  
7 AGENCY" MEANS A LAW ENFORCEMENT AGENCY IN THIS STATE THAT WAS THE  
8 EMPLOYER OF A LAW ENFORCEMENT OFFICER LICENSED UNDER THIS ACT, OR A  
9 LAW ENFORCEMENT AGENCY THAT ADMINISTERED AN OATH OF OFFICE TO A LAW  
10 ENFORCEMENT OFFICER UNDER SECTION 9C OR 9D, AND THAT WAS REQUIRED  
11 TO MAINTAIN AN EMPLOYMENT HISTORY RECORD FOR THAT LAW ENFORCEMENT  
12 OFFICER UNDER THIS ACT, INCLUDING THE RECORD DESCRIBED IN SECTION  
13 9E.

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