

# Legislative Analysis



## LAW ENFORCEMENT OFFICERS: REQUIRE ADDITIONAL TRAINING

Phone: (517) 373-8080  
<http://www.house.mi.gov/hfa>

**House Bill 5837 (H-3) as reported from committee**  
**Sponsor: Rep. Ronnie D. Peterson**  
**Committee: Judiciary**  
**Complete to 6-24-20**

Analysis available at  
<http://www.legislature.mi.gov>

### SUMMARY:

House Bill 5837 would amend the Michigan Commission on Law Enforcement Standards Act to, subject to appropriations, require individuals who are licensed or seeking licensure as law enforcement officers to complete training that includes de-escalation techniques, implicit bias training, procedural justice training, and mental health resources and support for law enforcement officers. The requirement would begin March 1, 2022. In addition, the bill would establish continuing education requirements for all licensed law enforcement officers.

House Bill 5837 would add a new section to the Michigan Commission on Law Enforcement Standards (MCOLES) to require, not later than December 31, 2021, and subject to appropriation, that MCOLES conduct or contract for research and analysis to identify training gaps and begin to adapt, adopt, or develop curriculum standards for training in the following areas or areas MCOLES determines to be substantially similar:

- De-escalation techniques.
- Implicit bias training.
- Procedural justice training.
- Mental health resources and support available for law enforcement officers.

Beginning March 1, 2022, all law enforcement officers who are licensed under the act, and all individuals seeking to be licensed under the act, would have to complete training that meets the standards described above. The bill also would apply to tribal officers, fire arson investigators, and private college security officers. An officer licensed on March 1, 2022, who had not previously completed training that meets the bills' standards would have to do so. The bill would not apply to an individual elected or appointed as a sheriff.

Under House Bill 5837, the curriculum standards for training on de-escalation techniques could include any of the following:

- The employment of verbal and physical tactics to diffuse [**Note:** defuse?] volatile or potentially violent situations, including when they are safe and feasible, with an emphasis on using communication, negotiation, and de-escalation techniques.
- The level of force that is an objectively reasonable response to an identified and articulable threat or resistance that is based on information available at the time of the incident and that requires constant reevaluation as circumstances dictate and allow.

- Training that provides law enforcement officers with awareness and recognition of indicators of physical and mental disabilities, mental health issues, developmental disabilities, and substance abuse issues with an emphasis on effective communication and de-escalation techniques.
- As appropriate with the nature and immediacy of the threat to public safety, the use of distance, cover, and time when approaching and managing critical incidents, in order to help create a safety zone between the law enforcement officer and subject, to afford the officer more time to react to the circumstances.
- A law enforcement officer's responsibility to intervene in a situation if another law enforcement officer's actions indicate that officer has lost self-control or use of force is not objectively reasonable to the level of resistance encountered.
- Other evidence-based approaches, found to be appropriate by MCOLES, that enhance de-escalation techniques and skills.

#### Meeting the standards/license sanctions for noncompliance

Individuals seeking to become a licensed law enforcement officer under the act, or who already are licensed, could meet the standards for implicit bias training by completing a course approved by MCOLES.

Not later than January 1, 2022, each law enforcement agency would have to adopt a written policy stating that each officer in its employ utilize de-escalation techniques in his or her interactions with citizens to the extent that is as reasonable and safe as possible. MCOLES would have to make a model written policy available on its website, adoption of which would satisfy the requirement to adopt a written policy.

The bill would also require MCOLES to promulgate rules to ensure compliance with the bill's provisions, including a tiered system of license sanctions, up to license revocation, for law enforcement officers who refuse to comply with the training requirements. The rules promulgated under this requirement pertaining to license revocation would have to incorporate the requirements and procedures for revocation of a license in the same manner as provided in the act for law enforcement officers, tribal officers, fire arson investigators, and private college security officers.

#### Continuing education

The bill would add a new section to require, subject to appropriation, a licensed officer to complete not less than 12 hours of continuing education in subjects related to law enforcement on or after January 1, 2022, and before January 1, 2023, and to complete not less than 24 hours of continuing education annually thereafter. MCOLES would have to promulgate rules to implement the continuing education requirement.

#### Definitions

The bill would add definitions for the following terms:

*De-escalation technique* would mean a method or methods intended to diffuse [**Note:** defuse?] potentially volatile or violent situations with the goal of reducing the level of

subject control required to resolve the situation in an objectively reasonable and safe manner.

*Implicit bias training* would mean an evidence-based training that provides instruction regarding the bias implicit in all human beings and how to help ensure unconscious bias does not inhibit fair and impartial law enforcement.

*Procedural justice training* would mean training based on the principles of treating people with dignity and respect, giving citizens a voice during encounters, being neutral in decision making, and conveying trustworthy motives while emphasizing law enforcement's role in the context of the larger criminal justice system.

*Training gap* would mean identified behavioral or performance deficiencies caused by a lack of skill or knowledge.

*Curriculum* would mean a structure of educational standards that identifies behavioral objectives and outcomes.

MCL 28.609 et seq.

#### **FISCAL IMPACT:**

House Bill 5837 would have significant fiscal implications for the Department of State Police (MSP), other law enforcement agencies (including county and local law enforcement), and law enforcement training entities. Primary responsibility for implementing the bill's provisions would be vested in MCOLES, housed within MSP. Given historical funding levels and pressures on MCOLES funding and staffing (including declining revenues from the Michigan Justice Training Fund), MCOLES would face significant obstacles in implementing this bill without additional appropriations. It should be noted that the bill stipulates that training, analysis, and continuing education requirements would all be subject to appropriation. The Fiscal Year 2020 appropriation for MCOLES totals approximately \$11.0 million Gross (\$1.3 million GF/GP). An initial estimate from MCOLES projected at least four additional staff members would be required to implement and maintain the bill's provisions (including an In-Service Curriculum Developer, Behavioral Health and Services Developer, Agency Inspector, and Mandatory Training Analyst), at a cost of approximately \$562,000 annually. Factoring in other recurring costs (DTMB IT Charges, Telecom, etc.), the department estimated the bill would require expenditures of at least \$1.68 million annually. One-time costs would also be incurred, with the department initially estimating an expenditure of approximately \$513,000. The department estimated that in-service training under the bill would cost \$11.4 million in FY 2022 and \$22.8 million in FY 2023, with future fiscal years requiring an expenditure of similar magnitude. This amount was estimated based on a training cost of \$50/hour with a total officer population of 19,000. The distribution of costs for training between the state and local funding units is presently indeterminate. The amount that may be required to contract for the completion of research and analysis on training gaps and curriculum standards development is presently indeterminate.

**POSITIONS:**

Representatives of the following entities testified in support of the bill:

ACLU of Michigan (6-11-20)

AFSME Council 25 (6-17-20)

The following entities indicated support for the bill:

Michigan Chiefs of Police (6-24-20)

Wayne State University (6-11-20)

Michigan Coalition to End Domestic and Sexual Violence (6-17-20)

Michigan Center for Youth Justice (6-17-20)

The ARC of Michigan (6-17-20)

Quicken Loans (6-17-20)

A representative of the Michigan Sheriff's Association testified in opposition to the bill.  
(6-11-20)

Legislative Analyst: Susan Stutzky  
Fiscal Analyst: Marcus Coffin

---

■ This analysis was prepared by nonpartisan House Fiscal Agency staff for use by House members in their deliberations, and does not constitute an official statement of legislative intent.