



Senate Fiscal Agency
P.O. Box 30036
Lansing, Michigan 48909-7536



BILL ANALYSIS

Telephone: (517) 373-5383
Fax: (517) 373-1986

Senate Bill 945 (Substitute S-1 as passed by the Senate)

Sponsor: Senator Jeff Irwin

Committee: Judiciary and Public Safety

Date Completed: 7-14-20

CONTENT

The bill would amend the Michigan Commission on Law Enforcement Standards Act to do the following:

- **Require the Michigan Commission on Law Enforcement Standards (MCOLES) to promulgate, by September 1, 2021, rules establishing minimum standards for training in de-escalation techniques, implicit bias training, procedural justice training, and mental health resources and support available for law enforcement officers.**
- **Beginning January 1, 2022, require an individual seeking to become a licensed law enforcement officer, tribal law enforcement officer, fire arson investigator, or private college security officer to complete training in de-escalation techniques, implicit bias training, procedural justice training, and mental health resources and support available for law enforcement officers.**
- **Require an individual licensed as a law enforcement officer, tribal law enforcement officer, fire arson investigator, or private college security officer on December 31, 2021, who had not completed the training described above to complete training that met the minimum standards described below.**
- **Allow an individual seeking to become a law enforcement officer licensed under the Act or a person who was already a licensed law enforcement officer to meet the minimum standards for implicit bias training by completing an implicit bias training course offered by the United States Department of Justice.**
- **Require each law enforcement agency in Michigan to adopt, by January 1, 2022, a written policy stating that its officers had an affirmative duty to use de-escalation techniques whenever possible.**
- **Require, subject to appropriation, a law enforcement officer licensed under the Act to complete at least 12 hours of continuing education in subjects related to law enforcement on or after January 1, 2022, and before January 1, 2023, and annually thereafter, at least 24 hours of continuing education in subjects related to law enforcement.**

De-Escalation & Other Training; Law Enforcement

Sections 9, 9b, 9c, and 9d of the Act govern the licensure of the following categories of law enforcement officers, respectively: law enforcement officers except individuals to whom Sections 9a (sheriffs) through 9d apply, Michigan tribal law enforcement officers authorized to enforce State law, fire arson investigators from fire departments within local units of government, and private college security officers. Employment of each category of law enforcement officer is subject to the licensing requirements and procedures of its respective

section and Section 9e. (Section 9e requires a law enforcement officer licensed under Section 9, 9b, 9c, or 9d to complete active violence training). Under the bill, employment also would be subject to the requirements of Section 9f, which the bill would add.

In addition, Sections 9, 9b, 9c, and 9d require MCOLES to promulgate rules governing licensing standards and procedures pertaining to training requirements, among other things. The promulgated rules are subject to Section 9e, which requires MCOLES to promulgate rules establishing minimum standards for active violence response training. Under the bill, rules promulgated for training requirements also would be subject to Section 9f.

Under Section 9f, by September 1, 2021, MCOLES would have to promulgate rules establishing the minimum standards for training in all of the following areas:

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

"De-escalation" would mean a method or methods for assessing and managing a situation in order to resolve it with the least use of force that is safe and practicable by a law enforcement officer. "Implicit bias training" would mean an evidence-based program to provide fair and impartial law enforcement by increasing awareness of and improving response strategies to conscious bias. "Procedural justice training" would mean a system of law enforcement that prioritizes legitimacy over deterrence in obtaining citizen compliance with law enforcement directions and emphasizes fair process and respectful two-way communication conveying the rationale behind directions given by a law enforcement officer to a citizen.

The minimum standards for training on de-escalation techniques would have to include all of the following:

- The use of alternate nonlethal methods of applying force and techniques that would prevent a law enforcement officer from escalating any situation in which force was likely to be used.
- Verbal and physical tactics to minimize the need for the use of force, with an emphasis on communication, negotiation, de-escalation techniques, and providing the time needed to resolve the incident safely for each individual involved.
- The use of the lowest level of force that was a possible and safe response to an identified threat and reevaluation of an identified threat as it progressed.
- Techniques that would provide all officers with awareness and recognition of physical and mental disabilities, mental health issues, and substance abuse issues with an emphasis on communication strategies, and training officers simultaneously in teams on de-escalation and use of force to improve group dynamics and diminish excessive force during critical incidents.
- Principles of using distance, cover, and time when approaching and managing critical incidents, and elimination of other techniques in favor of using distance and cover to create a reaction gap.
- Crisis intervention strategies to appropriately identify and respond to an individual suffering from physical or mental disabilities, mental health issues, or substance abuse issues, with an emphasis on de-escalation techniques and prompting effective communication.
- Other evidence-based approaches, found to be appropriate by the Commission, that would enhance de-escalation techniques and skills.

"Reaction gap" would mean the minimum amount of distance necessary to ensure that a law enforcement officer is able to react appropriately to a potential threat.

An individual seeking to become a law enforcement officer licensed under the Act or a person who was already a licensed law enforcement officer could meet the minimum standards for implicit bias training by completing an implicit bias training course offered by the US Department of Justice.

Beginning January 1, 2022, an individual who was seeking to become licensed as a law enforcement officer under Section 9, 9b, 9c, or 9d would have to complete training that met the minimum standards under Section 9f. A law enforcement officer who was licensed under Section 9, 9b, 9c, or 9d on December 31, 2021, and who had not previously completed the required training would have to complete training that met the minimum standards. Also, by that date, each law enforcement agency in the State would have to adopt a written policy stating that each of the law enforcement officers in its employ had an affirmative duty to use de-escalation techniques in his or her interactions with individuals whenever possible.

The Commission would have to make available on its website a model written policy meeting the above requirements. A law enforcement agency could fulfill its duty by adopting this model written policy.

Continuing Education

The bill also would add Section 9g to the Act. Under Section 9g, subject to appropriation, a law enforcement officer licensed under the Act would have to complete at least 12 hours of continuing education in subjects related to law enforcement on or after January 1, 2022, and before January 1, 2023.

Subject to appropriation, beginning January 1, 2023, a law enforcement officer licensed under the Act would have to complete at least 24 hours of continuing education in subjects related to law enforcement annually.

The Commission would have to promulgate rules to implement the continuing education provisions pursuant to the Administrative Procedures Act.

MCL 28.609 et al.

Legislative Analyst: Stephen Jackson

FISCAL IMPACT

The bill would have a significant fiscal impact on MCOLES which, according to the Commission staff would require \$513,383 in one-time costs, staff increases totaling \$419,391 annually, recurring supplies and services costs of \$104,945, and \$11.4 million for fiscal year (FY) 2021-22 for contractual training costs, and \$22.8 million for training costs annually thereafter. There also would be a fiscal impact on law enforcement training academies and local law enforcement agencies to the extent that changes to training standards and continuing education requirements for those licensed under MCOLES would require additional administrative costs in an amount that cannot be determined at this time.

Additional FTE positions required under estimates provided by MCOLES include a behavior health and services developer (\$147,740, salary and benefits), an agency inspector (\$133,911, salary and benefits) and a mandatory training analyst (\$142,740, salary and benefits). Associated recurring internal costs for MCOLES would include Department of Technology, Management, and Budget computers and workstation charges (\$6,000), telecommunications (\$3,153), vehicle fleet costs (\$20,200), travel (\$20,592), and training module maintenance (\$50,000).

Onetime projected costs for MCOLES under the bill includes training module development (\$500,000), and staff computers and communications equipment (\$13,383).

Annual costs of additional training required under Section 9f of the bill, which would involve contracting with a vendor to assist in the development of a training module and to conduct the training, would require an estimated \$11.4 million (\$600 per 19,000 FTEs) for FY 2021-22, in which 12 hours of continuing education would be required, and \$22.8 million (\$1,200 per 19,000 FTEs) every year thereafter, in which 24 hours of continuing education would be required.

Two of the bill's requirements, that a licensed law enforcement officer would have to complete at least 12 hours of continuing education between January 1, 2022, and January 1, 2023, and 24 hours annually thereafter, are prefaced by statements that they would be "subject to appropriation", though it may be a fair assumption to assume that the requirement for in-service training of licensed officers in regard to de-escalation techniques, implicit bias training, procedural justice training, and mental health resources and support available for officers, likely would require at least part of the 12 hours of continuing education needed to fulfill the bill's requirements.

Major responsibility for the bill's provisions would fall under MCOLES, the State agency that sets professional standards for the education, selection, employment, licensing, and license revocation of law enforcement personnel. The bill also specifies that MCOLES would be required to promulgate rules to implement its provisions. The agency has a FY 2019-20 appropriation of \$10,995,500 gross, \$250,000 Federal, \$9,474,300 restricted, and \$1,271,200 General Fund/General Purpose dollars.

The Justice Training Fund, first established under Public Act 302 of 1982, provides an appropriated amount of \$6,939,300 in restricted fund support for MCOLES, revenue that comes from fine assessments. These restricted funds are authorized to be spent between two training grant programs; 60% for local agencies on a per capita basis (of certified officers), and 40% for MCOLES administrative costs and a competitive training grant program for law enforcement agencies. Despite the appropriated amount, the actual restricted funds available for spending in FY 2019-20 may be \$4.8 million or less because of declining annual fine revenue collections that have seen a reduction of \$1.0 million since FY 2009-10 and \$3.0 million since FY 1999-2000.

Training academies that would be involved in implementing the bill's provisions would include 12 regional police training academies (often college- or community college-based), three agency academies (Michigan State Police, Michigan Department of Natural Resources, and Detroit Metropolitan Police), and five preservice track programs (academic, plus police training). Law enforcement agencies also would have responsibilities under the bill, which currently number 581 traditional and specialized agencies, employing approximately 19,000 certified law enforcement officers.

Fiscal Analyst: Bruce Baker

SAS\S1920\s945sb

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.