

REACTIVATION OF CERTAIN INACTIVE LAW ENFORCEMENT LICENSES

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House Bill 5133 as introduced
Sponsor: Rep. Timothy Beson
Committee: Government Operations
Complete to 9-29-21

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

SUMMARY:

House Bill 5133 would amend the Michigan Commission on Law Enforcement Standards (MCOLES) Act to allow, and provide procedures for, the reactivation of certain inactive licenses of law enforcement officers¹ and Michigan tribal law enforcement officers. The bill would not apply to sheriffs, fire arson investigators, or private college security officers.

Inactive licenses

The act provides conditions and procedures under which a license that has been rendered inactive can be reactivated. For law enforcement officers and Michigan tribal law enforcement officers (both simply “officer” below), these procedures apply to a license that has been rendered inactive under either of the following conditions:

- A. For an individual who has been employed as an officer for less than one year, he or she is continuously subjected to a removal of the authority to act as an officer,² or is continuously not employed as an officer, for less than one year.
- B. For an individual who has been employed as an officer for one year or more but less than two years, he or she is continuously subjected to a removal of the authority to act as an officer, or is continuously not employed as an officer, for less than two years.

The bill would provide that a license is also rendered inactive under these conditions:

- C. For an individual who has been employed as an officer for two years or more but less than 10 years, he or she is continuously subjected to a removal of the authority to act as an officer, or is continuously not employed as an officer, for more than five years.³

Reinstating an inactive license

Under current law (applicable to conditions A and B above), a law enforcement agency or other appropriate authorizing entity may reactivate an inactive license by complying with the applicable licensing procedures required under the act, except for verification of such things as the individual’s compliance with training requirements, licensing exam proficiency, physical ability, psychological fitness, education, reading and writing proficiency, or minimum age.

¹ **Law enforcement officer** is defined here: <https://www.legislature.mi.gov/documents/mcl/pdf/mcl-28-602.pdf>

² This is described as “the authority conferred by the oath of office” for law enforcement officers and as “the authority conferred by the written instrument authorizing the individual to enforce the laws of this state” for Michigan tribal law enforcement officers.

³ Note that, in the bill’s descriptions of an inactive license, the applicable period of inactivity jumps from “less than two years” to “more than five years.” This means that these provisions would not apply to a period of inactivity lasting any amount of time from exactly two years to exactly five years—for example, they would not apply to a person who had not been employed as an officer for three years. (Of course, the act does not now apply to such a person.)

Under the bill, the above reinstatement procedure would apply only to licenses rendered inactive under condition A.

For licenses rendered inactive under condition B or C, a law enforcement agency or other appropriate authorizing entity could reactivate an individual's license if the individual submitted to the agency or entity a written request to waive compliance with the applicable licensing procedures required under the act except for verification of such things as the individual's compliance with training requirements, licensing exam proficiency, physical ability, psychological fitness, education, reading and writing proficiency, and minimum age.⁴ The bill implies that the agency or entity would have to exercise the waiver and exception in granting the individual's request.

Lapsed licenses

Under both current law and the bill, a license to which any of the following conditions apply⁵ is rendered lapsed and cannot be reinstated without further licensure under the act:

- For an individual who has been employed as an officer for less than one year, he or she is continuously subjected to a removal of the authority to act as an officer, or is continuously not employed as an officer, for one year (or more).
- For an individual who has been employed as an officer for one year or more, he or she is continuously subjected to a removal of the authority to act as an officer, or is continuously not employed as an officer, for two years (or more).

MCL 28.609 and 28.609b

FISCAL IMPACT:

House Bill 5133 would not be expected to have a significant fiscal impact on the Department of State Police or any other state or local governmental unit.

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■ 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.

⁴ Note that this description of which licensing provisions would have to be adhered to is the opposite of current law and of the provisions that would apply to condition A. The exceptions are the same, but in one case they are exceptions from required compliance and in the other case they are exceptions from a waiver of required compliance.

⁵ Note that the criteria in the second bullet would apply to every individual who would be subject to condition C of the inactive license provisions under the bill. The bill is not clear as to how it would resolve this apparent conflict.