

SENATE BILL NO. 1097

November 13, 2024, Introduced by Senators MOSS, CHANG, SANTANA, IRWIN, GEISS, ANTHONY, SHINK, MCMORROW, CAMILLERI and BAYER and referred to the Committee on Civil Rights, Judiciary, and Public Safety.

A bill to amend 2017 PA 128, entitled "Law enforcement officer separation of service record act," by amending sections 1, 2, 3, and 5 (MCL 28.561, 28.562, 28.563, and 28.565), section 5 as amended by 2018 PA 522, by designating sections 1 and 2 as article 1 and sections 3 to 5 as article 2, and by adding articles 3 and 4.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

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ARTICLE 1

DEFINITIONS

Sec. 1. This act ~~shall be known and may~~ be cited as the "law

1 ~~enforcement officer separation of service record act".~~ **law**
2 **enforcement officer service records act".**

3 Sec. 2. As used in this act:

4 (a) "Commission" means the Michigan commission on law
5 enforcement standards created in section 3 of the Michigan
6 commission on law enforcement standards act, 1965 PA 203, MCL
7 28.603.

8 (b) ~~"Former employing law enforcement agency" means a law~~
9 ~~enforcement agency in this state that was the employer of, or that~~
10 ~~issued an oath of office to, a law enforcement officer licensed~~
11 ~~under the Michigan commission on law enforcement standards act,~~
12 ~~1965 PA 203, MCL 28.601 to 28.615, and that was required to~~
13 ~~maintain an employment history record for that law enforcement~~
14 ~~officer under the Michigan commission on law enforcement standards~~
15 ~~act, 1965 PA 203, MCL 28.601 to 28.615.~~ **"Law enforcement officer"**
16 **means an individual who is licensed under the Michigan commission**
17 **on law enforcement standards act, 1965 PA 203, MCL 28.601 to**
18 **28.615, or was previously employed as a licensed or certified law**
19 **enforcement officer in this state.**

20 (c) "Separated law enforcement officer" means a law
21 enforcement officer who meets both of the following requirements:

22 (i) Has left employment with a former employing law enforcement
23 agency.

24 (ii) Requests and receives a separation of service record under
25 article 2.

26 (d) "Separating law enforcement officer" means a law
27 enforcement officer who meets all of the following requirements:

28 (i) Is currently employed with a current employing law
29 enforcement agency at the time of requesting a provisional service

1 record under article 3.

2 (ii) Intends to leave the employment with the current employing
3 law enforcement agency to take a position with a prospective
4 employing law enforcement agency.

5 (iii) Requests and receives a provisional service record under
6 article 3.

7 **ARTICLE 2**

8 **LAW ENFORCEMENT OFFICER SEPARATION OF SERVICE RECORD**

9 Sec. 3. (1) In addition to the employment history record
10 required to be maintained under the Michigan commission on law
11 enforcement standards act, 1965 PA 203, MCL 28.601 to 28.615, by a
12 law enforcement agency, ~~for each officer it employs or for each~~
13 ~~officer to whom the chief of police of a village, city, or township~~
14 ~~or county sheriff has administered an oath of office, a former~~
15 **employing** law enforcement agency shall **create and** maintain a
16 **separate** record regarding the reason or reasons for, and **all**
17 circumstances surrounding, a separation of service for each law
18 enforcement officer ~~for whom the law enforcement agency is required~~
19 ~~to maintain an employment history record under the Michigan~~
20 ~~commission on law enforcement standards act, 1965 PA 203, MCL~~
21 ~~28.601 to 28.615, who subsequently separates from the law~~
22 ~~enforcement agency or from his or her~~ **the law enforcement officer's**
23 employment as a **licensed** law enforcement officer ~~requiring the~~
24 ~~administration of an oath of office under section 9c or 9d under~~
25 **section 9, 9b, 9c, or 9d** of the Michigan commission on law
26 enforcement standards act, 1965 PA 203, MCL **28.609, 28.609b,**
27 **28.609c, and 28.609d. The separation of service record required to**
28 **be maintained under this subsection must contain information**
29 **required by and be in a form prescribed by the commission and**

1 include, but is not limited to, any disciplinary process or
2 investigation against the separated law enforcement officer that
3 was active within 1 year before the date of the law enforcement
4 officer's separation.

5 (2) A former employing law enforcement agency shall finalize a
6 separation of service record within 5 business days after the date
7 of the law enforcement officer's separation. Except as otherwise
8 provided in subsection (5), a separation of service record must not
9 be amended or altered after it has been finalized.

10 (3) Within 3 days after finalizing the separation of service
11 record, a former employing law enforcement agency shall send to a
12 separated law enforcement officer a written notice that includes
13 all the following statements:

14 (a) That the separation of service record has been finalized.

15 (b) That the separated law enforcement officer has the right
16 to review the separation of service record upon written request by
17 that separated law enforcement officer.

18 (c) That the separated law enforcement officer has a right to
19 disagree with the accuracy of the contents of the separation of
20 service record.

21 (d) That, if the separated law enforcement officer disagrees
22 with the accuracy of the contents of the separation of service
23 record, the separated law enforcement officer may request that the
24 former employing law enforcement agency supplement the separation
25 of service record to correct or disclaim the portion the separated
26 law enforcement officer believes is incorrect.

27 (4) ~~(2)~~—The former employing law enforcement agency shall
28 allow a ~~separating~~ separated law enforcement officer to review a
29 record prepared under subsection (1) upon ~~the~~ written request of

1 the ~~separating~~**separated** law enforcement officer. A former
2 employing law enforcement agency must provide the separation of
3 service record within 3 days after receiving the written request
4 described under this subsection.

5 (5) ~~(3) If a separating~~**A separated** law enforcement officer
6 who disagrees with the accuracy of the contents of the **separation**
7 **of service** record prepared under subsection ~~(1)~~, he or she may,
8 **within 7 calendar days after receipt of the separation of service**
9 **record**, request the correction or ~~removal~~**disclaimer** of the portion
10 of the record ~~he or she~~**the separated law enforcement officer**
11 believes is incorrect. On receipt of the request under this
12 subsection, the former employing law enforcement agency and the
13 **separated law enforcement officer** may, within 7 calendar days after
14 receipt of the request, agree on the contents of the supplement to
15 **the separation of service record**. If the former employing law
16 enforcement agency and the ~~separating~~**separated** law enforcement
17 officer cannot reach an agreement on the contents of the ~~record~~
18 prepared under subsection ~~(1)~~, **supplement to the separation of**
19 **service record**, the ~~separating~~**separated** law enforcement officer
20 may, **within 7 calendar days after the date to reach an agreement on**
21 **the contents of the supplement to the separation of service record**
22 **has expired**, submit a written statement explaining the ~~separating~~
23 **separated** law enforcement officer's position and the basis for ~~his~~
24 ~~or her~~**the separated law enforcement officer's** disagreement. If a
25 ~~separating~~**separated** law enforcement officer submits a **timely**
26 written statement under this subsection, it must be kept with the
27 **separation of service** record required under subsection (1) and
28 provided with the rest of the contents of the record as required
29 under section 5.

1 Sec. 5. (1) A law enforcement officer who ~~is licensed or who~~
2 ~~was previously licensed or certified under the Michigan commission~~
3 ~~on law enforcement standards act, 1965 PA 203, MCL 28.601 to~~
4 ~~28.615, and was previously employed as a law enforcement officer in~~
5 ~~this state, who separates from his or her~~**an** employing law
6 enforcement agency or from employment as a law enforcement officer,
7 ~~to whom an oath of office has been administered under section 9c or~~
8 ~~9d of the Michigan commission on law enforcement standards act,~~
9 ~~1965 PA 203, MCL 28.609c and 28.609d,~~ and who subsequently seeks to
10 become reemployed as a **licensed** law enforcement officer in this
11 state, shall provide to the prospective employing law enforcement
12 agency, upon ~~receiving a conditional offer of~~**application for**
13 employment, a signed waiver. A waiver executed under this
14 subsection must expressly allow the prospective employing law
15 enforcement agency to contact the law enforcement officer's former
16 employing law enforcement agency or agencies and ~~seek~~**obtain** a copy
17 of the **separation of service** record regarding the reason or reasons
18 for, and **all** circumstances surrounding, ~~his or her~~**the separated**
19 **law enforcement officer's** separation of service **record** created by
20 ~~his or her~~**the separated law enforcement officer's** former employing
21 law enforcement agency or agencies under section 3.

22 (2) A waiver under subsection (1) must be executed on a form
23 provided by the commission to all law enforcement agencies in this
24 state that employ ~~or administer oaths of office to~~ law enforcement
25 officers licensed under the Michigan commission on law enforcement
26 standards act, 1965 PA 203, MCL 28.601 to 28.615, **to enforce the**
27 **laws of this state**. The prospective employing law enforcement
28 agency is responsible for providing the waiver executed under
29 subsection (1) to the former employing law enforcement agency or

1 agencies.

2 (3) Upon receipt of the waiver executed under subsection (1),
3 a former employing law enforcement agency shall provide, along with
4 other information required or allowed to be provided by law, a
5 **written** copy of the **separation of service** record required under
6 section 3 to the prospective employing law enforcement agency.

7 (4) A prospective employing law enforcement agency shall not
8 hire a law enforcement officer to whom subsection (1) applies
9 unless the prospective employing law enforcement agency receives
10 the record created under section 3 from the law enforcement
11 officer's former employing law enforcement agency or agencies.

12 ~~(5) A former employing law enforcement agency that discloses~~
13 ~~information under this section in good faith after receipt of a~~
14 ~~waiver executed under subsection (1) is immune from civil liability~~
15 ~~for the disclosure. A former employing law enforcement agency is~~
16 ~~presumed to be acting in good faith at the time of a disclosure~~
17 ~~under this section unless a preponderance of the evidence~~
18 ~~establishes 1 or more of the following:~~

19 ~~(a) That the former employing law enforcement agency knew that~~
20 ~~the information disclosed was false or misleading.~~

21 ~~(b) That the former employing law enforcement agency disclosed~~
22 ~~the information with a reckless disregard for the truth.~~

23 ~~(c) That the disclosure was specifically prohibited by a state~~
24 ~~or federal statute.~~

25 ~~(6) A prospective employing law enforcement agency that~~
26 ~~receives a record maintained under section 3 from the law~~
27 ~~enforcement officer's former employing law enforcement agency or~~
28 ~~agencies shall, upon written request from the commission, provide a~~
29 ~~copy of the record requested to the commission for the purpose of~~

1 ~~determining compliance with licensing standards and procedures~~
2 ~~under the Michigan commission on law enforcement standards act,~~
3 ~~1965 PA 203, MCL 28.601 to 28.615.~~

4 ~~(7) A law enforcement agency that is required to maintain a~~
5 ~~record under section 3 shall, upon written request from the~~
6 ~~commission, provide a copy of the record requested to the~~
7 ~~commission for the purpose of determining compliance with licensing~~
8 ~~standards and procedures under the Michigan commission on law~~
9 ~~enforcement standards act, 1965 PA 203, MCL 28.601 to 28.615.~~

10 **ARTICLE 3**

11 **LAW ENFORCEMENT OFFICER PROVISIONAL SERVICE RECORD**

12 **Sec. 6.** In addition to the employment history record required
13 to be maintained under the Michigan commission on law enforcement
14 standards act, 1965 PA 203, MCL 28.601 to 28.615, and the
15 separation of service record required to be created and maintained
16 under article 2, a current employing law enforcement agency may, on
17 receipt of the waiver described under section 7, create and
18 maintain a provisional service record for a separating law
19 enforcement officer. The provisional service record required to be
20 maintained under this subsection must contain information required
21 by and be in a form prescribed by the commission and include, but
22 is not limited to, any disciplinary process, performance plan, or
23 investigation against the separating law enforcement officer by any
24 law enforcement agency that was active within 1 year before the
25 date of the separating law enforcement officer's request for the
26 provisional service record.

27 **Sec. 7 (1)** A separating law enforcement officer who requests a
28 provisional service record under section 6 shall provide to the
29 prospective employing law enforcement agency, upon receiving a

1 conditional offer of application for employment, a signed waiver. A
2 waiver executed under this subsection must expressly allow the
3 prospective employing law enforcement agency to contact the current
4 employing law enforcement agency to obtain a copy of the
5 provisional service record.

6 (2) A current employing law enforcement agency shall finalize
7 the provisional service record within 5 business days after the
8 receipt of the waiver described under subsection (1). Except as
9 otherwise provided in subsection (5), a provisional service record
10 must not be amended or altered after it has been finalized.

11 (3) Within 3 days after finalizing the provisional service
12 record, a current employing law enforcement agency shall send to a
13 separating law enforcement officer a written notice that includes
14 all of the following statements:

15 (a) That the provisional service record has been finalized.

16 (b) That the separating law enforcement officer has the right
17 to review the provisional service record upon written request by
18 that separating law enforcement officer.

19 (c) That the separating law enforcement officer has a right to
20 disagree with the accuracy of the contents of the provisional
21 service record.

22 (d) That if the separating law enforcement officer disagrees
23 with the accuracy of the contents of the provisional service
24 record, the separating law enforcement officer may request that the
25 current employing law enforcement agency supplement the provisional
26 service record to correct or disclaim the portion the separating
27 law enforcement officer believes is incorrect.

28 (4) The current employing law enforcement agency shall allow a
29 separating law enforcement officer to review the provisional

1 service record upon the written request of the separating law
2 enforcement officer. A current employing law enforcement agency
3 must provide the provisional service record within 3 days after
4 receiving the written request described under this subsection.

5 (5) A separating law enforcement officer who disagrees with
6 the accuracy of the contents of the provisional service record
7 prepared under section 6 may, within 7 calendar days after receipt
8 of the provisional service record, request the correction or
9 disclaimer of the portion of the provisional service record the
10 separating law enforcement officer believes is incorrect. On
11 receipt of the request under this subsection, the current employing
12 law enforcement agency and the separating law enforcement officer
13 may, within 7 calendar days after receipt of the request, agree on
14 the contents of the supplement to the provisional service record.
15 If the current employing law enforcement agency and the separating
16 law enforcement officer cannot reach an agreement on the contents
17 of the supplement to the provisional service record, the separating
18 law enforcement officer may, within 7 calendar days after the date
19 to reach an agreement on the contents of the supplement to the
20 provisional service record has expired, submit a written statement
21 explaining the separating law enforcement officer's position and
22 the basis for the separating law enforcement officer's
23 disagreement. If a separating law enforcement officer submits a
24 timely written statement under this subsection, the request must be
25 kept with the provisional service record required under section 6
26 and provided with the rest of the contents of the provisional
27 service record as required under this article.

28 ARTICLE 4

29 GENERAL PROVISIONS

1 Sec. 9. A law enforcement agency that discloses information
2 under this act in good faith after receipt of a waiver executed
3 under article 2 or 3 is immune from civil liability for the
4 disclosure. A law enforcement agency is conducting a government
5 function and is presumed to be acting in good faith at the time of
6 a disclosure under this act unless a preponderance of the evidence
7 establishes 1 or more of the following:

8 (a) That the law enforcement agency knew that the information
9 disclosed was false or misleading.

10 (b) That the law enforcement agency disclosed the information
11 with a reckless disregard for the truth.

12 (c) That the disclosure was specifically prohibited by a state
13 or federal statute.

14 Sec. 10. (1) A prospective employing law enforcement agency
15 that receives a separation of service record maintained under
16 section 3 from the separated law enforcement officer's former
17 employing law enforcement agency or a provisional service record
18 prepared under section 6 from the separating law enforcement
19 officer's current employing law enforcement agency shall, upon
20 written request from the commission, provide a copy of the
21 separation of service record or provisional service record
22 requested to the commission for the purpose of determining
23 compliance with licensing standards and procedures under the
24 Michigan commission on law enforcement standards act, 1965 PA 203,
25 MCL 28.601 to 28.615.

26 (2) A law enforcement agency that is required to create and
27 maintain a separation of service record under section 3 or
28 provisional service record under section 6 shall, upon written
29 request from the commission, provide a copy of the separation of

1 service record or provisional service record requested to the
2 commission for the purpose of determining compliance with licensing
3 standards and procedures under the Michigan commission on law
4 enforcement standards act, 1965 PA 203, MCL 28.601 to 28.615.

5 Sec. 11. (1) The creation and maintenance of a separation of
6 service record under article 2 does not relieve a law enforcement
7 agency from its obligation to create a provisional service record
8 if a separating law enforcement officer requests the creation of
9 the provisional service record before the law enforcement officer
10 separates from that law enforcement agency.

11 (2) The creation and maintenance of a provisional service
12 record under article 3 does not relieve a law enforcement agency
13 from its obligation to create a separation of service record after
14 a law enforcement officer separates from that law enforcement
15 agency.