

LAW ENFORCEMENT OFFICER SEPARATION OF SERVICE RECORD ACT (EXCERPT)
Act 128 of 2017

***** 28.565.amended THIS AMENDED SECTION IS EFFECTIVE MARCH 28, 2019 *****

28.565.amended Reemployment of law enforcement officer; waiver allowing contact with former employing law enforcement agency; execution of waiver; immunity from civil liability; copy to Michigan commission on law enforcement standards.

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

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

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

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

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

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

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

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

(6) A prospective employing law enforcement agency that receives a record maintained under section 3 from the law enforcement officer's former employing law enforcement agency or agencies shall, upon written request from the commission, provide a copy of the record requested to the commission for the purpose of determining compliance with licensing standards and procedures under the Michigan commission on law enforcement standards act, 1965 PA 203, MCL 28.601 to 28.615.

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

History: 2017, Act 128, Eff. Jan. 15, 2018;—Am. 2018, Act 522, Eff. Mar. 28, 2019.