

MICHIGAN COMMISSION ON LAW ENFORCEMENT STANDARDS ACT (EXCERPT)
Act 203 of 1965

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

28.609.amended Employment of law enforcement officers; licensing requirements and procedures; fingerprinting; rules; licensure process; granting or denying license; duties of law enforcement agency upon administering oath of office; license rendered inactive; reactivation; lapsed or revoked license; prohibited authority.

Sec. 9. (1) This section applies to all law enforcement officers except individuals to whom sections 9a, 9b, 9c, and 9d apply. Employment of law enforcement officers to whom this section applies is subject to the licensing requirements and procedures of this section and section 9e. An individual who seeks admission to a preservice college basic law enforcement training academy or a regional basic law enforcement training academy or the recognition of prior basic law enforcement training and experience program for purposes of licensure under this section shall submit to fingerprinting as provided in section 11(3).

(2) The commission shall promulgate rules governing licensing standards and procedures for individuals licensed under this section. In promulgating the rules, the commission shall give consideration to the varying factors and special requirements of law enforcement agencies. Rules promulgated under this subsection must pertain to the following:

(a) Subject to section 9e, training requirements that may be met by completing either of the following:

(i) Preenrollment requirements, courses of study, attendance requirements, and instructional hours at an agency basic law enforcement training academy, a preservice college basic law enforcement training academy, or a regional basic law enforcement training academy.

(ii) The recognition of prior basic law enforcement training and experience program for granting a waiver from the licensing standard specified in subparagraph (i).

(b) Proficiency on a licensing examination administered after compliance with the licensing standard specified in subdivision (a).

(c) Physical ability.

(d) Psychological fitness.

(e) Education.

(f) Reading and writing proficiency.

(g) Minimum age.

(h) Whether or not a valid operator's or chauffeur's license is required for licensure.

(i) Character fitness, as determined by a background investigation supported by a written authorization and release executed by the individual for whom licensure is sought.

(j) Whether or not United States citizenship is required for licensure.

(k) Employment as a law enforcement officer.

(l) The form and manner for execution of a written oath of office by a law enforcement agency with whom the individual is employed, and the content of the written oath conferring authority to act with all of the law enforcement authority described in the laws of this state under which the individual is employed.

(m) The ability to be licensed and employed as a law enforcement officer under this section, without a restriction otherwise imposed by law.

(3) The licensure process under this section must follow the following procedures:

(a) Before executing the oath of office, an employing law enforcement agency verifies that the individual to whom the oath is to be administered complies with licensing standards.

(b) A law enforcement agency employing an individual licensed under this section authorizes the individual to exercise the law enforcement authority described in the laws of this state under which the individual is employed, by executing a written oath of office.

(c) Not more than 10 calendar days after executing the oath of office, the employing law enforcement agency shall attest in writing to the commission that the individual to whom the oath was administered satisfies the licensing standards by submitting an executed affidavit and a copy of the executed oath of office.

(4) If, upon reviewing the executed affidavit and executed oath of office, the commission determines that the individual complies with the licensing standards, the commission shall grant the individual a license.

(5) If, upon reviewing the executed affidavit and executed oath of office, the commission determines that the individual does not comply with the licensing standards, the commission may do any of the following:

(a) Supervise the remediation of errors or omissions in the affidavit and oath of office.

(b) Supervise the remediation of errors or omissions in the screening, procedures, examinations, testing, and other means used to verify compliance with the licensing standards.

(c) Supervise additional screening, procedures, examinations, testing, and other means used to determine compliance with the licensing standards.

(d) Deny the issuance of a license and inform the employing law enforcement agency.

(6) Upon being informed that the commission has denied issuance of a license, the employing law enforcement agency shall promptly inform the individual whose licensure was denied.

(7) An individual denied a license under this section shall not exercise the law enforcement authority described in the laws of this state under which the individual is employed. This subsection does not divest the individual of that authority until the individual has been informed that his or her licensure was denied.

(8) A law enforcement agency that has administered an oath of office to an individual under this section shall do all of the following, with respect to that individual:

(a) Report to the commission all personnel transactions affecting employment status in a manner prescribed in rules promulgated by the commission.

(b) Report to the commission concerning any action taken by the employing agency that removes the authority conferred by the oath of office, or that restores the individual's authority to that conferred by the oath of office, in a manner prescribed in rules promulgated by the commission.

(c) Maintain an employment history record.

(d) Collect, verify, and maintain documentation establishing that the individual complies with the licensing standards.

(9) An individual licensed under this section shall report all of the following to the commission:

(a) Criminal charges for offenses for which that individual's license may be revoked as described in this section, upon being informed of such charges, in a manner prescribed in rules promulgated by the commission.

(b) The imposition of a personal protection order against that individual after a judicial hearing under section 2950 or 2950a of the revised judiciary act of 1961, 1961 PA 236, MCL 600.2950 and 600.2950a, or under the laws of any other jurisdiction, upon being informed of the imposition of such an order, in a manner prescribed in rules promulgated by the commission.

(10) A license issued under this section is rendered inactive, and may be reactivated, as follows:

(a) A license is rendered inactive if 1 or more of the following occur:

(i) An individual, having been employed as a law enforcement officer for fewer than 2,080 hours in aggregate, is thereafter continuously not employed as a law enforcement officer for less than 1 year.

(ii) An individual, having been employed as a law enforcement officer for fewer than 2,080 hours in aggregate, is thereafter continuously subjected to a removal of the authority conferred by the oath of office for less than 1 year.

(iii) An individual, having been employed as a law enforcement officer for 2,080 hours or longer in aggregate, is thereafter continuously not employed as a law enforcement officer for less than 2 years.

(iv) An individual, having been employed as a law enforcement officer for 2,080 hours or longer in aggregate, is continuously subjected to a removal of the authority conferred by the oath of office for less than 2 years.

(b) An employing law enforcement agency may reactivate a license rendered inactive by complying with the licensure procedures described in subsection (3), excluding verification of and attestation to compliance with the licensing standards described in subsection (2)(a) to (g).

(c) A license that has been reactivated under this section is valid for all purposes described in this act.

(11) A license issued under this section is rendered lapsed, without barring further licensure under this act, if 1 or more of the following occur:

(a) An individual, having been employed as a law enforcement officer for fewer than 2,080 hours in aggregate, is thereafter continuously not employed as a law enforcement officer for 1 year.

(b) An individual, having been employed as a law enforcement officer for fewer than 2,080 hours in aggregate, is thereafter continuously subjected to a removal of the authority conferred by the oath of office for 1 year.

(c) An individual, having been employed as a law enforcement officer for 2,080 hours or longer in aggregate, is thereafter continuously not employed as a law enforcement officer for 2 years.

(d) An individual, having been employed as a law enforcement officer for 2,080 hours or longer in aggregate, is continuously subjected to a removal of the authority conferred by the oath of office for 2 years.

(12) The commission shall revoke a license granted under this section for any of the following circumstances and shall promulgate rules governing revocations under this subsection:

(a) The individual obtained the license by making a materially false oral or written statement or committing fraud in an affidavit, disclosure, or application to a law enforcement training academy, the commission, or a law enforcement agency at any stage of recruitment, selection, appointment, enrollment,

training, or licensure application.

(b) The individual obtained the license because another individual made a materially false oral or written statement or committed fraud in an affidavit, disclosure, or application to a law enforcement training academy, the commission, or a law enforcement agency at any stage of recruitment, selection, appointment, enrollment, training, or licensure application.

(c) The individual has been subjected to an adjudication of guilt for a violation or attempted violation of a penal law of this state or another jurisdiction that is punishable by imprisonment for more than 1 year.

(d) The individual has been subjected to an adjudication of guilt for violation or attempted violation of 1 or more of the following penal laws of this state or laws of another jurisdiction substantially corresponding to the penal laws of this state:

(i) Section 625(1) or (8) of the Michigan vehicle code, 1949 PA 300, MCL 257.625, if the individual has a prior conviction, as that term is defined in section 625(25)(b) of the Michigan vehicle code, 1949 PA 300, MCL 257.625, that occurred within 7 years of the adjudication as described in section 625(9)(b) of the Michigan vehicle code, 1949 PA 300, MCL 257.625.

(ii) Section 7403(2)(c) or 7404(2)(a), (b), or (c) of the public health code, 1978 PA 368, MCL 333.7403 and 333.7404.

(iii) Section 81(4) or 81a or a misdemeanor violation of section 411h of the Michigan penal code, 1931 PA 328, MCL 750.81, 750.81a, and 750.411h.

(13) The following procedures and requirements apply to license revocation under this section:

(a) The commission shall initiate license revocation proceedings, including, but not limited to, the issuance of an order of summary suspension and notice of intent to revoke, upon obtaining notice of facts warranting license revocation.

(b) A hearing for license revocation must be conducted as a contested case under the administrative procedures act of 1969, 1969 PA 306, MCL 24.201 to 24.328.

(c) In lieu of participating in a contested case, an individual may voluntarily and permanently relinquish his or her law enforcement officer license by executing before a notary public an affidavit of license relinquishment prescribed by the commission.

(d) The commission need not delay or abate license revocation proceedings based on an adjudication of guilt if an appeal is taken from the adjudication of guilt.

(e) If the commission issues a final decision or order to revoke a license, that decision or order is subject to judicial review as provided in the administrative procedures act of 1969, 1969 PA 306, MCL 24.201 to 24.328. A summary suspension described in this section is not a final decision or order for purposes of judicial review.

(14) An individual licensed under this section shall not exercise the law enforcement authority described in the laws of this state under which the individual is employed if any of the following occur:

(a) The individual's license is rendered void by a court order or other operation of law.

(b) The individual's license is revoked.

(c) The individual's license is rendered inactive.

(d) The individual's license is rendered lapsed.

History: 1965, Act 203, Eff. Jan. 1, 1966;—Am. 1970, Act 187, Imd. Eff. Jan. 1, 1971;—Am. 1971, Act 31, Imd. Eff. May 26, 1971;—Am. 1976, Act 422, Imd. Eff. Jan. 11, 1977;—Am. 1985, Act 15, Imd. Eff. May 15, 1985;—Am. 1994, Act 155, Eff. Mar. 30, 1995;—Am. 1998, Act 237, Imd. Eff. July 3, 1998;—Am. 2004, Act 379, Imd. Eff. Oct. 12, 2004;—Am. 2005, Act 239, Imd. Eff. Nov. 22, 2005;—Am. 2016, Act 289, Eff. Jan. 2, 2017;—Am. 2017, Act 198, Imd. Eff. Dec. 15, 2017;—Am. 2018, Act 552, Eff. Mar. 28, 2019.

Compiler's note: For transfer of statutory authority, powers, duties, functions, and responsibilities of the Michigan justice training commission, the Michigan justice training fund, the commission on law enforcement standards, and the law enforcement officers training fund to the new Michigan commission on law enforcement standards by type III transfer, see E.R.O. No. 2001-2, compiled at MCL 28.621 of the Michigan Compiled Laws.

Administrative rules: R 28.4101 et seq.; R 28.4201 et seq.; and R 28.4351 et seq. of the Michigan Administrative Code.