

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



Telephone: (517) 373-5383
Fax: (517) 373-1986
TDD: (517) 373-0543

Senate Bill 133 (as introduced 2-6-01)
Sponsor: Senator Loren Bennett
Committee: Judiciary

Date Completed: 5-22-01

CONTENT

The bill would amend the L.E.I.N. Policy Council Act to do all of the following:

- **Expand the membership of the Law Enforcement Information Network (LEIN) Policy Council.**
- **Require the council to establish policy and promulgate rules regarding the operation of the Automated Fingerprint Identification System (AFIS) and access to LEIN and AFIS by all criminal justice systems.**
- **Require the council to advise the Director of the Department of State Police on issues concerning criminal justice information systems.**
- **Prohibit a person from gaining access to, using, or disclosing LEIN or AFIS information for personal use or gain (which would replace the current prohibition against disclosing LEIN information to a private entity for any purpose); increase the maximum term of imprisonment for a first conviction from 90 to 93 days; and apply the criminal penalties only to intentional violations.**
- **Prohibit the disclosure of AFIS information (as well as LEIN information) in an unauthorized manner.**
- **Require the council to function independently of the Director of the Department of State Police, except for budgeting, procurement, and related management functions.**
- **Repeal the AFIS Policy Council Act, which created the AFIS policy council (with a membership similar to the LEIN policy council) to establish policy and promulgate rules regarding the operational and audit procedures to be followed by agencies using AFIS (MCL 28.151-28.158).**

The bill also would rename the LEIN Policy Council the "Criminal Justice Information Systems Policy Council" and change the Act's official title to the "C.J.I.S. Policy Council Act".

Council Composition

The LEIN Policy Council comprises the following members:

- The Attorney General, or his or her designee.
- The Secretary of State, or his or her designee.
- The Director of the Department of Corrections, or his or her designee.
- The Commissioner of the Detroit Police Department, or his or her designee.
- Three representatives of the Department of State Police, appointed by the Director of that Department.
- Three representatives of the Michigan Association of Chiefs of Police, appointed annually by that association.

- Three representatives of the Michigan Sheriffs' Association, appointed annually by that association.
- Three representatives of the Prosecuting Attorneys Association of Michigan, appointed annually by that association.

The bill would add all of the following to the council:

- The Director of the Department of State Police, or his or her designee.
- A fourth representative of the Michigan Sheriffs' Association.
- A representative of the Michigan District Judges Association, appointed by that association.
- A representative of the Michigan Judges Association, appointed by that association.
- The State Court Administrator, or his or her designee.
- An individual who was employed in or engaged in the private security business, appointed by and serving at the pleasure of the Governor.
- An individual who represented human services concerns in Michigan, appointed by and serving at the pleasure of the Governor.

The bill also would refer to the "chief", rather than the "commissioner", of the Detroit Police Department.

The bill would delete the requirement that the representatives of the police chiefs', sheriffs', and prosecutors' associations be appointed annually. Under the bill, council members representing the Department of State Police, private security businesses, human services concerns, and the police chiefs', sheriffs', prosecutors', district judges', and judges' associations would serve two-year terms and could be reappointed.

The bill specifies that a majority of the council members would constitute a quorum to conduct business at council meetings.

Policy and Rules

The Act requires that the council establish policy and promulgate rules regarding the operational procedures to be followed by agencies using LEIN. The bill would require that the policies and rules also cover operational procedures to be followed by agencies using AFIS and access to LEIN and AFIS by all criminal justice systems.

Among other matters, the Act requires that the policy and rules ensure access to locator information obtained through LEIN by State and Federal agencies and the Friend of the Court for enforcement of child support programs as provided under State and Federal Law, and ensure access to information of an individual being investigated by a State or county employee who is engaged in the enforcement of Michigan's child protection laws or rules. The bill, instead, would require that the policy and rules do the following:

- Ensure access to information by a Federal, State, or local government agency to administer criminal justice or enforce any law.
- Ensure access to information provided by LEIN or AFIS by a government agency engaged in the enforcement of child support laws, child protection laws, or vulnerable adult protection laws.

Prohibitions and Penalties

The Act prohibits a person from disclosing information from LEIN to a private entity for any purpose, including the enforcement of child support programs. A first offense is a misdemeanor punishable by up to 90 days' imprisonment, a maximum fine of \$500, or both.

A second or subsequent offense is a felony punishable by up to four years' imprisonment, a maximum fine of \$2,000, or both.

The bill, instead, would prohibit the access, use, or disclosure of information from LEIN or AFIS for personal use or gain. Under the bill, the criminal penalties would apply to a person who "intentionally" violated the prohibition and the maximum penalty for a first conviction would be increased from 90 days' imprisonment to 93 days.

In addition, the Act prohibits disclosing information from LEIN in a manner that is not authorized by law or rule. The bill would add disclosure of AFIS information to that prohibition.

State Police

The bill would require the council to exercise its prescribed powers, duties, functions, and responsibilities independently of the Director of the Department of State Police. The council's budgeting, procurement, and related management functions, however, would have to be performed under the Director's direction and supervision. In addition, the executive secretary of the council would have to be appointed by the Director, subject to the council's approval.

MCL 28.211 et al.

Legislative Analyst: P. Affholter

FISCAL IMPACT

The bill would have an insignificant fiscal impact on the State. Combining two policy councils (the AFIS Policy Council and the LEIN Policy Council) into a single council could produce a small savings due to realized efficiencies.

Fiscal Analyst: B. Baker