

REVISE ACCESS TO DISCHARGE & DISMISSAL INFORMATION FOR DEPT. OF CORRECTIONS

Mary Ann Cleary, Director
Phone: (517) 373-8080
<http://www.house.mi.gov/hfa>

House Bill 4966
Sponsor: Rep. Aric Nesbitt

House Bill 4968
Sponsor: Rep. Kurt Heise

House Bill 4967
Sponsor: Rep. Kevin Cotter

House Bill 4969
Sponsor: Rep. Margaret E. O'Brien

Committee: Judiciary
Complete to 9-25-13

A SUMMARY OF HOUSE BILLS 4966-4969 AS INTRODUCED 9-12-13

The bills would amend four different acts to revise the conditions under which the Department of Corrections may access nonpublic records kept by the Department of State Police regarding discharge and dismissals of certain criminal charges.

Under very specific circumstances, Michigan law provides an offender the opportunity to have a criminal charge for certain misdemeanor offenses deferred and, upon successful completion of a period of probation, have those charges discharged and the case dismissed. Court proceedings during the deferral period are closed to public inspection. If the court enters a judgment of guilt (or for a juvenile, an adjudication of responsibility), the court records are opened for public inspection. However, if the charges are dismissed and the cases discharged, the records are no longer open. The MSP is required to retain a nonpublic record of the arrest, court proceedings, and disposition of the criminal charge. Access to the nonpublic information is restricted to certain entities and individuals, and then only for statutorily specified purposes.

Currently, the Department of Corrections (DOC) is allowed access to this nonpublic information, but only to ascertain preemployment criminal history or to determine whether a DOC employee has violated conditions of employment.

House Bills 4966-4969 would amend various acts to strike that language and instead allow DOC access to the information *for use only in the performance of its duties*. (Italics added for emphasis.)

House Bill 4966 amends the Michigan Penal Code (MCL 750.350a) to apply to nonpublic records regarding a discharge and dismissal for the crime of an adoptive or natural parent keeping a child away from any other parent or guardian who has valid custody or parenting rights, sometimes referred to as "parental kidnapping."

House Bill 4967 amends the Revised Judicature Act (MCL 600.1076) to apply to the nonpublic records regarding discharge and dismissals issued for various crimes to participants of drug treatment court programs.

House Bill 4968 amends the Code of Criminal Procedure (MCL 769.4a) to apply to the nonpublic records regarding a discharge and dismissal for the crime of domestic violence.

House Bill 4969 amends the Public Health Code (MCL 333.7411) to apply to the nonpublic records regarding a discharge and dismissal for certain drug offenses.

FISCAL IMPACT:

The bill would have no fiscal impact on either the Department of Corrections or the Department of State Police, and would not impact local units of government.

Legislative Analyst: Susan Stutzky
Fiscal Analyst: Mark Wolf

■ This analysis was prepared by nonpartisan House staff for use by House members in their deliberations, and does not constitute an official statement of legislative intent.