



Senate Fiscal Agency
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BILL ANALYSIS



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Senate Bills 92 through 96 (as enacted)
Senate Bills 866 through 869 (as enacted)

PUBLIC ACTS 289-293 of 2016
PUBLIC ACTS 294-297 of 2016

Sponsor: Senator Tonya Schuitmaker (S.B. 92, 93, 94, 866, & 867)
Senator Margaret E. O'Brien (S.B. 95 & 96)
Senator Rick Jones (S.B. 868 & 869)

Senate Committee: Judiciary
House Committee: Judiciary

Date Completed: 11-29-16

CONTENT

Senate Bill 92 amends the Commission on Law Enforcement Standards Act to do the following:

- Codify the 17-member Michigan Commission on Law Enforcement Standards (MCOLES) (which was created by an Executive Reorganization Order), and add a member representing deputy sheriffs and one member representing the public.
- Revise the appointment method for board members representing certain law enforcement-related organizations.
- Require MCOLES to promulgate rules governing law enforcement officer licensing standards, instead of rules establishing minimum standards.
- Require MCOLES to grant a license, rather than certification, to a person who meets the standards and will be employed as a law enforcement officer.
- Establish separate licensure requirements for sheriffs, tribal law enforcement officers, locally appointed fire arson investigators, and private college security officers.
- Authorize MCOLES to investigate alleged violations of the Act or rules.
- Specify that a petition for judicial review of a final decision or order of MCOLES may be adjudicated only in the Court of Claims, and the Commission has standing to bring an action in that court to compel compliance with the Act.
- Revise provisions regarding police training academies.
- Require a licensed law enforcement officer to inform MCOLES when he or she is charged with a particular offense or is subject to a personal protection order.
- Create the "Law Enforcement Officers Training Fund" and authorize the Commission to charge certain fees for deposit in the Fund.

The bill also authorizes MCOLES to use money granted to it by the Department of State Police from the Secondary Road Patrol and Training Fund to do the following:

- Reimburse law enforcement agencies for the reasonable costs they incur in providing education to their employees who are enrolled in law enforcement training academies for the purpose of being employed by the agencies as licensed law enforcement officers.
- For fiscal years 2015-16 and 2016-17, pay the reasonable expenses of performing the Commission's statutory functions.

The bill specifies that the Commission may not be granted or use, within a single fiscal year, more than 5.7% of the Secondary Road Patrol and Training Fund for any purpose.

The bill repeals Sections 4 and 16 of the Act, which pertain to MCOLES members' terms of office and the Act's original effective date.

The bill also renames the Act as the "Michigan Commission on Law Enforcement Standards Act".

Senate Bill 93 amends Public Act 302 of 1982, which created the Michigan Justice Training Commission and the Michigan Justice Training Fund, to do the following:

- Delete and replace most of the provisions of the Act, regarding use of the Michigan Justice Training Fund.
- Require MCOLES to use the Fund to make law enforcement distributions to law enforcement agencies, pay the reasonable expenses of providing MCOLES staff services and administering and enforcing the Act and the MCOLES Act, and awarding grants.
- Specify that money in the Fund that was not distributed in a fiscal year will remain in the Fund and may be used in future fiscal years for the designated purpose.
- Require MCOLES to conduct an annual registration of law enforcement agencies to verify each agency's roster of full-time and part-time officers and the number of hours for which they were compensated in the most recent calendar year.
- Require MCOLES annually to distribute 60% of the Fund for law enforcement distributions, in two semiannual installments, on a per full-time equated basis to eligible entities based on the number of full-time equated officers employed.
- Cap the reported hours of compensation at 2,080 hours for any individual officer, for purposes of the law enforcement distribution.
- Regulate an eligible entity's use of funds from a law enforcement distribution, and limit the use of a distribution to certain training and educational purposes.
- Allow MCOLES to award grants for the provision of criminal justice in-service training for law enforcement officers.
- Prohibit MCOLES from awarding grants to a professional association.
- Regulate a grantee's use of funds from a grant award.
- Require criminal justice in-service training courses to be registered through the MCOLES Information and Tracking Network.

Senate Bill 94 amends the Public Health Code to require a nonpublic record of a diversion and dismissal of a controlled substance violation maintained by the Michigan Department of State Police (MSP) to be open to MCOLES for certain purposes.

Senate Bill 95 amends the Revised Judicature Act to revise citations to certain funds and the Acts that created them.

Senate Bill 96 amends the Code of Criminal Procedure to refer to MCOLES and the MCOLES Act.

Senate Bills 866 through 869 amend various statutes to refer to peace officers or police officers who are licensed or certified under the Michigan Commission on Law Enforcement Standards Act, rather than those who are certified pursuant to the Commission on Law Enforcement Standards Act.

Senate Bill 866 amends the Natural Resources and Environmental Protection Act (NREPA). Senate Bill 867 amends the Police Officer's and Fire Fighter's Survivor Tuition Grant Act. Senate Bill 868 amends the Revised Judicature Act (RJA). Senate Bill 869 amends the Michigan Penal Code.

(In addition, House Bills 5494 through 5501 (Public Acts 298 through 305 of 2016) amended various statutes to refer to peace officers or police officers who are licensed or certified under the Michigan Commission on Law Enforcement Standards Act, rather than those who are certified pursuant to the Commission on Law Enforcement Standards Act.)

All of the Senate bills will take effect on January 2, 2017.

A more detailed description of Senate Bills 92, 93, 94, and 866 through 869 follows.

Senate Bill 92

Commission on Law Enforcement Standards

The Commission on Law Enforcement Standards Act provides for an 11-member Commission on Law Enforcement Standards. Executive Reorganization Order (ERO) 2001-2 provides for a 17-member Michigan Commission on Law Enforcement Standards. The bill essentially reflects in statute the MCOLES membership as prescribed by ERO 2001-2 and adds two members, one representing deputy sheriffs and one representing the public. Also, the ERO includes on the Commission the chief of a police department of a city that has a population of more than 750,000, or the chief's designee who is a command officer within that department. The bill instead refers to a city with a population of more than 600,000. (Detroit is the only Michigan city with a population of more than 600,000, and no longer has a population over 750,000.)

In addition, the bill includes on MCOLES one individual nominated by a police association not otherwise represented on the Commission representing law enforcement officers employed by a law enforcement agency employing more than 10% of the police officers in the State. The ERO includes such a member but refers to a police agency employing more than 15% of the police officers in Michigan.

The Commission includes representatives of various law enforcement-related organizations whom the Governor must appoint from a list of names submitted by each organization. Under the bill, the Governor instead must appoint individuals nominated by those organizations. If an organization permitted to nominate an individual to the Commission fails to provide a nominee at least 30 days before a vacancy created by the expiration of a term, or at least 30 days after the effective date of any other vacancy, the Governor may appoint any individual meeting the organization's membership requirements.

Under the bill, the terms of Commission members who were previously appointed by the Governor and serving on the Commission on the bill's effective date expire on that date. The Governor must appoint members to the Commission as provided in the bill within 90 days after its effective date.

The bill deletes a provision specifying that the Commission does not have the right to exercise any portion of the sovereign power of the State.

The Act requires the Commission to establish its own procedures and requirements with respect to quorum, place and conduct of its meetings, and other matters. The bill specifies that the Commission also may establish other procedures and requirements governing its operations to carry out the intent of the Act.

The Commission must make an annual report to the Governor that includes pertinent data regarding the law enforcement officer minimum standards and the degree of participation of municipalities in training programs. The bill also requires the report to include any other information the Governor requests or the Commission considers appropriate.

The Act requires the Commission to appoint an executive director, who holds office at the pleasure of the Commission. The bill requires the executive director to be an employee of the Commission.

Law Enforcement Licensure

Licensing Standards. The Act requires the Commission to promulgate rules to establish law enforcement officer minimum standards and specifies certain standards that must be included. It also requires the Commission to promulgate other rules regarding in-service training programs, the establishment of regional training centers, the approval of police training schools, and the acceptance of basic police training and law enforcement experience received by a person in fulfillment of the minimum standards. The Commission must grant certification to a person who meets the law enforcement officer minimum standards, and to certain others, such as an elected sheriff and a person who was employed as a law enforcement officer before January 1, 1977. The bill deletes those provisions.

Under the bill, MCOLES must promulgate rules governing licensing standards and procedures for individuals licensed under the Act. In promulgating the rules, the Commission must give consideration to the varying factors and special requirements of law enforcement agencies. The rules must pertain to the following:

- Training requirements, including courses of study, attendance requirements, and instructional hours at a training academy and the recognition of prior training experience.
- Proficiency on a licensing examination administered after compliance with training requirements.
- Physical ability.
- Psychological fitness.
- Education.
- Reading and writing proficiency.
- Minimum age.
- Whether a valid driver license is required for licensure.
- Character fitness, as determined by a background investigation.
- Whether United States citizenship is required for licensure.
- Employment as a law enforcement officer.
- The form and manner for execution of a written oath of office by the employing law enforcement agency, and the content of the oath conferring authority to act as a law enforcement officer.

The bill requires the licensure process to comply with certain procedures regarding employment and execution of an oath of office, including the following:

- Before executing the oath of office, an employing law enforcement agency must verify that the person to whom the oath is to be administered complies with the licensing standards.
- An agency employing a person licensed under the Act must authorize the person to exercise law enforcement authority by executing a written oath of office.
- Within 10 days after executing the oath, the employing law enforcement agency must attest in writing to MCOLES that the person to whom the oath was administered complies with the licensing standards, by submitting an executed affidavit and a copy of the oath of office.

If, upon reviewing the affidavit and oath, MCOLES determines that the person complies with the licensing standards, it must grant a license to that person. If, upon reviewing the affidavit and oath, MCOLES determines that the person does not comply with the licensing standards, it may do any of the following:

- Supervise the remediation of errors or omissions in the affidavit and oath.
- Supervise the remediation of errors or omissions in the screening, procedures, examinations, testing, and other means used to verify compliance with the licensing standards.
- Supervise additional screening, procedures, examinations, testing, and other means used to determine compliance with the licensing standards.
- Deny the issuance of a license and inform the employing law enforcement agency.

Upon being informed that MCOLES has denied issuance of a license, the employing law enforcement agency must promptly inform the individual who was denied the license. After being informed, the person may not exercise the law enforcement authority described in Michigan laws under which he or she is employed.

An individual licensed by MCOLES may not exercise the law enforcement authority described in Michigan laws under which he or she is employed if the person's license is rendered void by a court order or other operation of law, revoked, rendered inactive, or rendered lapsed.

The bill requires an individual law enforcement officer or law enforcement organization to whom an inquiry is made concerning an officer's or organization's compliance with the Act's licensing standards to respond to the inquiry within 45 calendar days. The individual or organization responding to an inquiry may charge the inquiring party a reasonable fee to recover the actual cost of producing information, documents, and other items requested.

Agency Reporting to MCOLES. The bill requires a law enforcement agency that has administered an oath of office to a person to do all of the following with respect to that individual:

- Report to MCOLES all personnel transactions affecting employment status, in a manner prescribed in rules promulgated by the Commission.
- Report to MCOLES concerning any action taken by the employing agency that removes the authority conferred by the oath of office, or that restores that authority.
- Maintain an employment history record.
- Collect, verify, and maintain documentation establishing that he or she complies with the licensing standards.

Reporting of Charges & PPO. The bill requires an individual licensed by MCOLES to report to MCOLES criminal charges for offenses for which his or her licensure may be revoked, upon being informed of those charges. A licensee also must report to the Commission the imposition of a personal protection order against him or her in a domestic violence or stalking situation. Notification must be in a manner prescribed in rules promulgated by MCOLES.

Inactive License. Under the bill, a license issued under the Act will be rendered inactive if any of the following apply:

- A person, having been employed as a law enforcement officer in aggregate for less than 2,080 hours, is then continuously not employed in that capacity for less than one year.
- A person, having been employed as a law enforcement officer in aggregate for less than 2,080 hours, is then continuously subjected to a removal of the authority conferred by the oath of office for less than one year.
- A person, having been employed as a law enforcement officer in aggregate for 2,080 hours or longer, is then continuously not employed in that capacity for less than two years.

An employing agency may reactivate a license rendered inactive by complying with the bill's licensure procedures, excluding verification of and attestation to compliance with the licensing standards. A license that is reactivated will be valid for all purposes of the Act.

Lapsed License. Under the bill, a license issued under the Act will be rendered lapsed, without barring further licensure under the Act, if any of the following apply:

- A person, having been employed as a law enforcement officer in aggregate for less than 2,080 hours, is then continuously not employed in that capacity for one year.
- A person, having been employed as a law enforcement officer in aggregate for less than 2,080 hours, is then continuously subjected to a removal of the authority conferred by the oath of office for one year.
- A person, having been employed as a law enforcement officer in aggregate for 2,080 hours or longer, is then continuously not employed in that capacity for two years.
- A person, having been employed as a law enforcement officer in aggregate for 2,080 hours or longer, is continuously subjected to removal of the authority conferred by the oath of office for two years.

Revocation of License. The Act requires the Commission to promulgate rules that provide for the revocation of certification of a law enforcement officer for certain actions. The bill deletes that provision. Under the bill, MCOLES must revoke a license granted under the Act for any of the following circumstances and must promulgate rules governing the revocations:

- A person obtained the license by making a materially false oral or written statement or committing fraud in an affidavit, disclosure, or application to a training academy, MCOLES, or a law enforcement agency.
- A person obtained the license because another individual made a materially false statement or committed fraud as described above.
- A person has been subjected to an adjudication of guilt for any violation or attempted violation of a penal law of this State or another jurisdiction that is punishable by more than one year's imprisonment.

The bill also requires MCOLES to revoke the license of a person who has been subjected to an adjudication of guilt for a violation or attempted violation of any of the following laws of this State or substantially corresponding laws of another jurisdiction:

- Section 625(1) (operating a motor vehicle while intoxicated) or 625(8) (operating a motor vehicle while the driver has in his or her body any amount of a Schedule 1 controlled substance or cocaine) of the Michigan Vehicle Code, if the person had a prior conviction that occurred within seven years.
- Sections 7403(2)(c) and 7404(2)(a), (b), and (c) of the Public Health Code (which prohibit the unlawful possession and use of certain controlled substances).
- Sections 81(4) (repeat domestic assault or repeat assault of a pregnant woman) and 81a (aggravated assault) and a misdemeanor violation of Section 411h (stalking) of the Michigan Penal Code.

The bill requires the Commission to initiate license revocation proceedings, including the issuance of an order of summary suspension and notice of intent to revoke, upon obtaining notice of facts warranting revocation. A hearing for license revocation must be conducted as a contested case under the Administrative Procedures Act (APA). Instead of participating in a contested case, a person 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.

The bill specifies that the Commission does not have to delay or abate a license revocation proceeding based on an adjudication of guilt if an appeal is taken from that adjudication.

If MCOLES issues a final decision or order to revoke a license, the decision or order will be subject to judicial review as provided in the APA. A summary suspension will not be a final decision or order for purposes of judicial review.

Sheriffs, Tribal Officers, Arson Investigators, & Private College Security Officers. The bill includes licensure provisions similar to those described above that are geared toward sheriffs, tribal officers, fire arson investigators, and private college security officers.

The provisions pertaining to an elected or appointed sheriff do not include the training and experience requirements otherwise required for licensure, or the language under which a license will be rendered inactive or lapsed.

Judicial Review

Currently, MCOLES is authorized to investigate alleged violations of the Commission on Law Enforcement Standards Act or rules promulgated under it. The Commission may hold hearings, administer oaths, issue subpoenas, and order testimony to be taken at a hearing or by deposition. A final decision or order is subject to judicial review as provided under the APA. The bill deletes and re-enacts those provisions.

The bill specifies that a petition for judicial review of a final decision or order of the Commission may be adjudicated only in the Court of Claims.

Under the bill, the Commission also has standing to commence an action in the Court of Claims to compel compliance with the Act or an administrative rule promulgated under it.

Training Academies

The Act authorizes the Commission to visit and inspect police training schools, issue certificates of approval to those schools, and take other actions with respect to police training schools.

The bill deletes those provisions and instead authorizes MCOLES to take similar actions with regard to agency basic law enforcement training academies, preservice college basic law enforcement training academies, and regional basic law enforcement training academies.

The bill also authorizes MCOLES to promulgate rules with respect to minimum standards and procedures for reserve officers.

Law Enforcement Officers Training Fund

The bill creates the Law Enforcement Officers Training Fund within the State Treasury. The State Treasurer may receive money or other assets from any source for deposit into the Fund. The Treasurer must direct investment of the Fund and credit to it any interest and earnings from investments.

The Commission will be the administrator of the Fund for auditing purposes and may spend money from the Fund, upon appropriation, to carry out its responsibilities under the Act.

Money in the Fund at the close of the fiscal year must remain in it and may not lapse into the General Fund. The Commission may use money in the Fund, upon appropriation, in future fiscal years.

The bill permits the Commission to establish and charge a fee to recover the cost of screening, enrolling, evaluating, and testing individuals who are not employed by a law enforcement agency. The Commission also may establish and charge a fee to recover the cost of issuing

licenses to people licensed under the Act. Revenue from both fees must be deposited in the Law Enforcement Officers Training Fund.

Use of Secondary Road Patrol & Training Fund

The bill authorizes MCOLES to use money granted to the Commission by the MSP from the Secondary Road Patrol and Training Fund for the following:

- Reimbursement to law enforcement agencies for reasonable costs that the agencies incur in providing education to their employees who are enrolled in law enforcement training academies for the purpose of being employed by the agencies as law enforcement officers licensed under the Act.
- For fiscal years 2015-16 and 2016-17 only, the reasonable expenses of performing the Commission's statutory functions authorized or required under the Act.

Law enforcement agencies seeking reimbursement from the Secondary Road Patrol and Training Fund must apply using procedures and forms established by MCOLES.

The bill also deletes provisions that created in the State Treasury a Law Enforcement Officers Training Fund, required the Legislature to appropriate sums from the Fund necessary for the Act's purposes, and specified how amounts appropriated from the Fund were to be paid. (All of the authority, powers, duties, functions, and responsibilities of that Fund were transferred to MCOLES by ERO 2001-2.)

Senate Bill 93

Justice Training Fund

Public Act 302 of 1982 created the Michigan Justice Training Commission and the Michigan Justice Training Fund. That Commission and Fund were transferred to MCOLES under ERO 2001-2. The bill deletes and replaces the bulk of Public Act 302.

Money from the Michigan Justice Training Fund may be used only as provided under the bill. Investment earnings derived from Fund assets must be deposited into the Fund. The Commission may promulgate rules governing the administration and use of the Fund.

The bill permits MCOLES to use the Fund for the following purposes:

- Making law enforcement distributions.
- Paying the reasonable expenses of providing staff services to the Commission for administering and enforcing the requirements of Public Act 302, and administering and enforcing the requirements of the MCOLES Act.
- Awarding grants as provided in Public Act 302.

Money in the Fund that is not distributed in a fiscal year and that was to be distributed as law enforcement distributions must remain in the Fund and may be used in future years for purposes of law enforcement distributions.

Money in the Fund that is not distributed in a fiscal year and that was to be used for reasonable expenses of providing staff services to MCOLES or for administering and enforcing the MCOLES Act must remain in the Fund and may be used in future fiscal years for those purposes.

Money in the Fund that is not distributed in a fiscal year and that was to be distributed to fund current or future grant awards must remain in the Fund and may be used in future fiscal years for that purpose.

Annual Registration

The bill requires MCOLES to conduct an annual registration of law enforcement agencies to verify each agency's roster of full-time and part-time law enforcement officers, and the number of hours for which they were compensated in the most recent elapsed calendar year. For purposes of a law enforcement distribution, the reported hours of compensation must be capped at 2,080 hours for any individual officer.

As part of the annual registration, each agency must indicate to MCOLES whether it elects to receive law enforcement distributions for the current year. An agency that elects not to receive distributions may not receive them for the current year but must comply with all applicable requirements of Public Act 302 until all previously received law enforcement distribution funds have been spent or returned as required in the Act.

Law Enforcement Distributions

The bill requires MCOLES annually to distribute 60% of the Michigan Justice Training Fund for law enforcement distributions, in two semiannual installments, on dates determined by the Commission. The distributions must be made on a per full-time equated (FTE) basis to eligible entities based on the number of FTE law enforcement officers employed. The number of FTE officers must be determined by dividing the total number of hours the eligible entity reported during the annual registration for which its full-time and part-time law enforcement officers were compensated in the most recent calendar year by 2,080 hours, rounded down to the nearest whole number greater than or equal to one.

If the Fund has sufficient funds, an eligible entity whose number of FTE officers does not support a minimum annual distribution of \$500 must receive a minimum annual distribution of that amount.

For each year, the percentage of law enforcement officers who provide direct law enforcement service receiving training under Public Act 302 must be equal to or greater than the percentage of officers who are in full-time administrative positions receiving training under the Act.

The bill defines "eligible entity" as a governmental agency of the executive branch of this State or a subdivision of the State that is established and maintained in accordance with Michigan laws and that is authorized by the laws of this State to employ or appoint law enforcement officers licensed under the MCOLES Act.

Use of Distribution Funds

Under the bill, funds received from a distribution must be deposited and maintained in an account separate from all other funds. An eligible entity may spend funds from a distribution only for the following purposes.

- Criminal justice in-service training that is designed and intended to enhance the direct delivery of criminal justice services by law enforcement officers.
- Direct costs (as described below).
- Costs incurred to participate in an in-State criminal justice in-service training program.
- Payment of certain out-of-State criminal justice in-service training expenses.

Direct costs include the following:

- The actual costs of training materials necessary to, and used solely during, the direct delivery of criminal justice in-service training.

- The reasonable rental cost or purchase price of equipment necessary to and used solely during the direct delivery of criminal justice in-service training, not to exceed \$5,000 or 10% of an eligible entity's annual distribution without prior written approval from MCOLES.
- The rental of training facilities, only if adequate facilities owned or operated by the eligible entity are not available.
- A flat rate, tuition, or subscription paid to a training provider, other than the eligible entity, for the delivery of criminal justice in-service training, but only if the training is registered through MCOLES before the dates on which it is conducted.

Funds from a distribution may be spent for costs incurred to participate in an in-State criminal justice in-service training program subject to the following restrictions:

- For tuition costs, only if the training course is registered through MCOLES before the dates on which training is conducted.
- For travel reimbursement at applicable rates authorized for members of the State classified civil service, only if the training course is registered through MCOLES before the dates on which training is conducted.
- For in-State instructor travel reimbursement, at applicable reimbursement rates for members of the State classified civil service.
- To pay the fees of a training consortium provider for the delivery of training.

The following out-of-State expenses may be paid:

- Tuition costs, if the eligible entity submits an out-of-State special use request to MCOLES and the Commission approves the expenditure before attendance.
- Registration costs, if the eligible entity submits a special use request and the Commission approves the expenditure before attendance, and the training is conducted for at least six hours within any 24-hour period.
- Travel costs, if for the purpose of participating in a learning experience intended to introduce or enhance knowledge, skills, and judgment directly related to the performance of professional criminal justice tasks currently assigned or assignable.
- Travel costs, if required to obtain or maintain skills or certification in a field of specialization related to the execution of law enforcement duties provided to the general public or related to the execution of administrative duties to enhance the ability of officers to perform duties provided to the general public.

Funds may not be distributed for out-of-State training expenses unless the course is registered through MCOLES before the dates on which the training is conducted and one or both of the following apply:

- The course provides certification in a field of specialization that is not available in Michigan.
- The course provides instruction that is not available in Michigan.

An eligible entity may not spend funds from a distribution for any of the following:

- Training individuals who are not law enforcement officers.
- Travel expenditures in excess of or in violation of the expenditure rates authorized for members of the State classified civil service.
- Alcoholic liquor.

For an eligible entity that was eligible to receive law enforcement distributions on October 12, 1982 (the effective date of Public Act 302), a law enforcement distribution made under the bill must serve as a supplement to, and not a replacement for, the training funds budgeted on that date for criminal justice in-service training of the law enforcement officers it employs.

For an eligible entity that did not elect to receive or was not eligible to receive law enforcement distributions on October 12, 1982, a distribution made under the bill must serve as a supplement to, and not a replacement for, the training funds budgeted for the year immediately before the first year for which the eligible entity received law enforcement distributions for criminal justice in-service training of the law enforcement officers it employs.

An eligible entity receiving a law enforcement distribution must spend the entire distribution within two years after the end of the calendar year in which it was received. If the eligible entity fails to spend the entire distribution within that period, it will be ineligible to receive further distributions until the entire distribution is spent for criminal justice in-service training and reported as prescribed by MCOLES.

If an eligible entity is no longer operating, the unit of government with which it is affiliated must return the unspent distribution funds immediately in a manner prescribed by MCOLES.

If MCOLES determines that an eligible entity has spent law enforcement distribution funds in violation of the Act, the Commission may do either of the following:

- Declare the eligible entity ineligible to receive further distributions for a period determined by MCOLES and require it to immediately return the funds spent in violation of the Act in a manner prescribed by MCOLES.
- Require the eligible entity to immediately return all unspent distribution funds, in addition to the funds spent in violation of the Act.

Beginning with the annual registration following the bill's effective date, funds received in a law enforcement distribution that have not been spent within five years after the year in which they were received must be returned immediately in a manner prescribed by the Commission.

Returned funds must be segregated and may be used only for law enforcement distributions.

The bill defines "criminal justice in-service training" as a criminal justice program that includes education or training that is designed and intended to enhance the direct delivery of criminal justice services by participants who are authorized to receive education or training as provided in the Act.

Maintenance of Records

The bill requires an eligible entity receiving law enforcement distribution funds to maintain records of distribution revenue and expenditures separate from other funding sources.

An eligible entity also must report to MCOLES on the expenditure of distribution funds in a manner and at intervals prescribed by the Commission. Each criminal justice in-service training program financed in whole or in part by distribution funds must be separately identified.

If an eligible entity is no longer operating, the unit of government with which it was affiliated must immediately give MCOLES a final accounting of expenditures of distribution funds for all years since the eligible entity last reported.

Grants

The bill allows MCOLES to award grants using written grant agreements to which it and the grantee are parties. Grantees must submit applications for grant awards in the manner that MCOLES prescribes. The Commission must publish grant application procedures.

The Commission may not award grants to a professional association. The bill defines "professional association" as a national, State, or local police union, or an association or fraternal organization of police officers, correctional officers, or prosecuting attorneys.

The bill defines "grantee" as an entity eligible to receive grant awards from the Michigan Justice Training Fund, including any of the following or a combination of any of the following:

- An agency, department, division, bureau, board, commission, council, or authority of the State or of a city, village, township, or county.
- A State-supported college or university.
- A community college.
- An agency or entity of the Michigan judicial branch of government.

Spending of Grant Funds

Under the bill, a grantee may spend funds from a grant award only as follows:

- To provide criminal justice in-service training that is designed and intended to enhance the direct delivery of criminal justice services by the grantee's employees or employees of other grantees.
- To provide criminal justice in-service training presented by a grantee or by a contractual service provider retained by a grantee.
- To pay the actual cost of criminal justice in-service training materials necessary to, and used during, the direct delivery of criminal justice in-service training.
- To pay the reasonable rental cost or purchase price of equipment necessary to, and used solely during, the direct delivery of criminal justice in-service training.
- To pay the reasonable hourly salaries of instructors and developers for actual time spent developing, preparing, and delivering criminal justice in-service training.

A grantee may not spend funds from a grant award for any of the following:

- Travel expenditures in excess of the rates authorized for members of the State classified civil service.
- Travel costs incurred to participate in a criminal justice in-service training program, unless the program is solely for training for which the expenditure of grant funds is authorized under the Act.
- Alcoholic liquor.
- Expenditures related to criminal justice in-service training courses for which grant funding has not been approved.
- Expenditures for goods and activities not related to criminal justice in-service training.

If MCOLES determines that a grantee has spent grant award funds in violation of the Act, the Commission may do either of the following:

- Declare the grantee ineligible to receive further grant awards for a period MCOLES determines.
- Terminate one or more grant awards, and require the grantee to immediately return grant award funds spent in violation of the Act in a manner MCOLES determines.

Returned funds must be segregated and may be used only for the reasonable expenses of providing staff services to the Commission for administering and enforcing the requirements of Public Act 302 and the MCOLES Act, or for grant awards.

If a grantee is no longer operating, the unit of government with which it was affiliated, or any other constituent or successor entity of the grantee, immediately must give MCOLES a final accounting of all expenses incurred for criminal justice in-service training that was delivered, and the Commission must terminate all current grant awards.

Maintenance of Records

The bill requires a grantee receiving a grant award under the Act to maintain records of grant revenue and expenditures separate from other funding sources.

A grantee also must report to MCOLES all expenditures of funds received from the Michigan Justice Training Fund, in a manner and at intervals prescribed by the Commission. Each training program financed in whole or in part by a grant award must be identified separately in the report.

Training Courses

The bill requires criminal justice in-service training courses to be registered through the MCOLES Information and Tracking Network. Law enforcement distribution funds and grant award funds may not be spent for the costs of courses that are not registered through MCOLES.

Eligible entities and grantees must report to MCOLES the training participants who attend each training session for which funding is provided in whole or in part under Public Act 302, in a manner and at intervals the Commission prescribes.

Biennial Audit

The Act requires the books, records, and accounts of the Michigan Justice Training Commission to be audited by the Auditor General every two years. The bill specifies instead that the books, records, and accounts pertaining to the Michigan Justice Training Fund may be subject to audit by the Auditor General every two years.

Senate Bill 94

Under Section 7411 of the Public Health Code, when an individual who has not previously been convicted of a drug-related offense pleads guilty to or is found guilty of certain controlled substance offenses, the court may defer further proceedings and place the person on probation. Upon fulfillment of the terms and conditions of probation, the court may discharge the person and dismiss the proceedings without adjudication of guilt.

Unless the court enters a judgment of guilt under Section 7411, the MSP must retain a nonpublic record of the arrest, court proceedings, and disposition of the criminal charge. The nonpublic record must be open, however, to certain entities for certain purposes. These include Michigan courts, law enforcement personnel, the Department of Corrections, and prosecuting attorneys for use in the performance of their duties or to determine whether an employee has violated conditions of employment or an applicant meets criteria for employment; Michigan courts, law enforcement personnel, and prosecuting attorneys for the purpose of showing that a defendant had already used the discharge and dismissal option; and the Department of Health and Human Services, for enforcing child protection laws and vulnerable adult protection laws or for ascertaining the pre-employment criminal history of a person who will be engaged in the enforcement of those laws.

Under the bill, the nonpublic record also will be open to MCOLES for the Commission to determine the following:

- Whether the individual meets the requirements for licensure as a law enforcement officer, if he or she is seeking licensure at the time of the request.
- Whether the license or certification may be revoked, if the individual is licensed or certified as a law enforcement officer.

- Whether the individual meets the requirements for admission, if he or she is seeking admission to a law enforcement training academy.
- Whether the individual meets the waiver requirements, if he or she is seeking a waiver from the law enforcement officer minimum standards regarding training requirements.

In addition, the nonpublic record will be open to MCOLES if the court placed the individual on probation after March 25, 2002.

Senate Bill 866

Various parts of NREPA involve the enforcement of criminal laws and contain a definition of "peace officer". The definitions include any peace officer who is trained and certified pursuant to the Commission on Law Enforcement Standards Act. The bill instead refers to any peace officer who is trained and licensed or certified under the MCOLES Act.

Senate Bill 867

The Police Officer's and Fire Fighter's Survivor Tuition Grant Act provides for the waiver of tuition at Michigan public community colleges and universities for the surviving spouse and children of Michigan police officers and firefighters killed in the line of duty. The Act's definition of "Michigan police officer" includes a police officer or law enforcement officer trained and certified under the Commission on Law Enforcement Standards Act. The bill instead refers to a police officer or law enforcement officer trained and licensed or certified under the MCOLES Act.

Senate Bill 868

Sections 2950 and 2950a of the RJA govern petitioning for and issuance of a personal protection order (PPO) in, respectively, domestic violence and stalking situations. Under both sections, if the respondent is a person who is licensed to carry a concealed weapon and is required to carry a weapon as a condition of his or her employment, a police officer certified by the Commission on Law Enforcement Standards Act, a sheriff, a corrections officer, or a Federal law enforcement officer who carries a firearm during employment, the petitioner must notify the court of the respondent's occupation before a PPO is issued. The bill refers to a police officer licensed or certified by the MCOLES Act, instead of a police officer certified by the Commission on Law Enforcement Standards Act.

Senate Bill 869

Section 528a of the Michigan Penal Code prohibits a person from teaching or demonstrating to another person the use, application, or construction of any firearm, or any explosive or incendiary device, if the person knows, has reason to know, or intends that what is taught or demonstrated will be used in, or in furtherance of, a civil disorder. A person also may not assemble with one or more people for the purpose of training with, practicing with, or being instructed in the use of any firearm, or any explosive or incendiary device, if the person intends to use the firearm or device in, or in furtherance of, a civil disorder. A violation of Section 528a is a felony punishable by up to four years' imprisonment and/or a maximum fine of \$5,000.

Section 528a does not apply to any act of a law enforcement officer that is performed in the lawful performance of his or her official duties as a law enforcement officer. As used in that section, "law enforcement officer" includes a peace officer who is trained and certified under the Commission on Law Enforcement Standards Act. The bill instead refers to a peace officer trained and licensed or certified under the MCOLES Act.

18.421 et al. (S.B. 93)
333.7411 (S.B. 94)
600.181 (S.B. 95)
763.11 (S.B. 96)
324.11701 et al. (S.B. 866)
390.1242 (S.B. 867)
600.2950 & 600.2950a (S.B. 868)
750.528a (S.B. 869)

FISCAL IMPACT

Senate Bills 92, 93, 95, & 96

The bills will have a minimal immediate fiscal impact on State and local government, but provisions in Senate Bill 92 have the potential to create an ongoing funding shortfall for MCOLES of approximately \$0.5 million, and provide an equal increase for local agency reimbursement payments for training officers beginning in FY 2017-18. This is due to the provision in Senate Bill 92 that limits the use of the Secondary Road Patrol and Training Fund by MCOLES to not more than 5.7% of that Fund beginning in FY 2017-18, and then allows it only for reimbursement to law enforcement agencies for reasonable costs incurred in providing education to their employees who are enrolled in law enforcement training academies for the purpose of being employed as licensed officers. For the past two years, MCOLES has been using these funds solely for its administrative costs related to training and not for local agency reimbursement; thus, beginning in FY 2017-18, MCOLES may face a shortfall its administrative budget, unless an additional source of income is appropriated by the Legislature to replace the funds.

Senate Bill 94

The bill will have no fiscal impact on State or local government.

Senate Bills 866 through 869

The bills will have no fiscal impact on State or local government.

Fiscal Analyst: Bruce Baker

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This analysis was prepared by nonpartisan Senate staff for use by the Senate in its deliberations and does not constitute an official statement of legislative intent.