

SUBSTITUTE FOR
SENATE BILL NO. 223

A bill to require the creation and maintenance of certain law enforcement officer personnel records; to prescribe the information that may be contained in the personnel records; to permit law enforcement officers to review the personnel records; and to provide for immunity from civil liability to law enforcement agencies in certain circumstances.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1 Sec. 1. This act shall be known and may be cited as the "law
2 enforcement officer separation of service record act".

3 Sec. 2. As used in this act:

4 (a) "Commission" means the Michigan commission on law
5 enforcement standards created in section 3 of the Michigan
6 commission on law enforcement standards act, 1965 PA 203, MCL
7 28.603.

8 (b) "Former employing law enforcement agency" means a law

1 enforcement agency in this state that was the employer of, or that
2 issued an oath of office to, a law enforcement officer licensed
3 under the Michigan commission on law enforcement standards act,
4 1965 PA 203, MCL 28.601 to 28.615, and that was required to
5 maintain an employment history record for that law enforcement
6 officer under the Michigan commission on law enforcement standards
7 act, 1965 PA 203, MCL 28.601 to 28.615.

8 Sec. 3. (1) In addition to the employment history record
9 required to be maintained under the Michigan commission on law
10 enforcement standards act, 1965 PA 203, MCL 28.601 to 28.615, by a
11 law enforcement agency for each officer it employs or for each
12 officer to whom the chief of police of a village, city, or township
13 or county sheriff has administered an oath of office, a law
14 enforcement agency shall maintain a record regarding the reason or
15 reasons for, and circumstances surrounding, a separation of service
16 for each law enforcement officer for whom the law enforcement
17 agency is required to maintain an employment history record under
18 the Michigan commission on law enforcement standards act, 1965 PA
19 203, MCL 28.601 to 28.615, who subsequently separates from the law
20 enforcement agency or from his or her employment as a law
21 enforcement officer requiring the administration of an oath of
22 office under section 9c or 9d of the Michigan commission on law
23 enforcement standards act, 1965 PA 203, MCL 28.609c and 28.609d.

24 (2) The law enforcement agency shall allow a separating law
25 enforcement officer to review a record prepared under subsection
26 (1) upon the request of the separating officer.

27 (3) If a separating law enforcement officer disagrees with the

1 accuracy of the contents of the record prepared under subsection
2 (1), he or she may request the correction or removal of the portion
3 of the record he or she believes is incorrect. If the law
4 enforcement agency and the separating law enforcement officer
5 cannot reach an agreement on the contents of the record prepared
6 under subsection (1), the separating law enforcement officer may
7 submit a written statement explaining the separating law
8 enforcement officer's position and the basis for his or her
9 disagreement. If a separating law enforcement officer submits a
10 written statement under this subsection, it must be kept with the
11 record required under subsection (1) and provided with the rest of
12 the contents of the record as required under section 5.

13 Sec. 5. (1) A law enforcement officer who is licensed or who
14 was previously licensed or certified under the Michigan commission
15 on law enforcement standards act, 1965 PA 203, MCL 28.601 to
16 28.615, and was previously employed as a law enforcement officer in
17 this state, who separates from his or her employing law enforcement
18 agency or from employment as a law enforcement officer to whom an
19 oath of office has been administered under section 9c or 9d of the
20 Michigan commission on law enforcement standards act, MCL 28.609c
21 and 28.609d, and who subsequently seeks to become reemployed as a
22 law enforcement officer in this state, shall provide to the
23 prospective employing law enforcement agency, upon offer of
24 employment, a signed waiver. A waiver executed under this
25 subsection must expressly allow the prospective employing law
26 enforcement agency to contact the law enforcement officer's former
27 employing law enforcement agency or agencies and seek a copy of the

1 record regarding the reason or reasons for, and circumstances
2 surrounding, his or her separation of service created by his or her
3 former employing law enforcement agency or agencies under section
4 3.

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

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

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

23 (5) A former employing law enforcement agency that discloses
24 information under this section in good faith after receipt of a
25 waiver executed under subsection (1) is immune from civil liability
26 for the disclosure. A former employing law enforcement agency is
27 presumed to be acting in good faith at the time of a disclosure

1 under this section unless a preponderance of the evidence
2 establishes 1 or more of the following:

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

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

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

9 Enacting section 1. This act takes effect 90 days after the
10 date it is enacted into law.