

# SENATE BILL No. 223

March 9, 2017, Introduced by Senators JONES, SCHUITMAKER, HERTEL and NOFS and referred to the Committee on Judiciary.

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".

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

1 28.603.

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

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

26 (2) The law enforcement agency shall allow a separating law  
27 enforcement officer to review a record prepared under subsection

1 (1) upon the request of the separating officer.

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

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

1 enforcement agency to contact the law enforcement officer's former  
2 employing law enforcement agency and seek a copy of the record  
3 regarding the reason or reasons for, and circumstances surrounding,  
4 his or her separation of service created by his or her former  
5 employing law enforcement agency under section 3.

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

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

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

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

1 presumed to be acting in good faith at the time of a disclosure  
2 under this section unless a preponderance of the evidence  
3 establishes 1 or more of the following:

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

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

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

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