

Senate Fiscal Agency  
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**SFA**

BILL ANALYSIS

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House Bill 4859 (Substitute H-1 as passed by the House)  
Sponsor: Representative Larry Julian  
House Committee: Criminal Justice  
Senate Committee: Judiciary

Date Completed: 2-13-02

### **CONTENT**

**The bill would amend the Public Health Code to require that the Records and Identification Division of the Department of State Police furnish a nonpublic record of arrest and discharge or dismissal for certain controlled substance violations to the Department of Corrections (DOC) or a law enforcement agency when the record applied to a DOC or agency employee or applicant.**

The Code provides that, when an individual who has not previously been convicted of a controlled substance offense pleads guilty to or is found guilty of certain drug offenses, the court, without entering a judgment of guilt and with the accused's consent, may defer further proceedings and place the individual on probation. Upon fulfillment of the terms and conditions of probation, the court must discharge the individual and dismiss the proceedings. This provision applies to the following violations:

- Possession of less than 25 grams of any mixture containing a Schedule 1 or 2 narcotic or cocaine (MCL 333.7403(2)(a)(v)).
- Possession of either a substance that contains any quantity of methamphetamine or certain Schedule 1, 2, 3, or 4 controlled substances (MCL 333.7403(2)(b)).
- Possession of lysergic acid diethylamide (LSD), peyote, mescaline, dimethyltryptamine, psilocyn, psilocybin, or a Schedule 5 controlled substance (MCL 333.7403(2)(c)).
- Possession of marijuana (MCL 333.7403(2)(d)).
- Use of a controlled substance or controlled substance analogue unless it was obtained directly from, or pursuant to, a valid prescription or order of a physician (MCL 333.7404)
- Possession or use of an imitation controlled substance for a second time (MCL 333.7341).

Discharge and dismissal must be without adjudication of guilt and is not a conviction for purposes of disqualifications or disabilities imposed by law upon conviction of a crime. An individual may receive only one discharge and dismissal under this provision.

The Records and Identification Division of the Department of State Police must retain a nonpublic record of an arrest and discharge or dismissal under this provision. The record may be furnished to a court or police agency, upon request, for the purpose of showing that a defendant has already used this provision once.

The bill would require that the record also be furnished to the Department of Corrections or a law enforcement agency, upon the request of the DOC or the agency, subject to all of the following conditions:

- At the time of the request, the individual was an employee of the DOC or the law enforcement agency or was an applicant for employment with either.

- If the individual were a DOC or law enforcement agency employee, the date on which the court placed the individual on probation occurred after the bill's effective date.
- The DOC or law enforcement agency would use the record only to determine whether an employee had violated his or her conditions of employment or whether an applicant met criteria for employment.

MCL 333.7411

Legislative Analyst: Patrick Affholter

**FISCAL IMPACT**

The bill would 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.