

# HOUSE BILL No. 5275

October 6, 2005, Introduced by Reps. Newell, Nofs and Condino and referred to the Committee on Judiciary.

A bill to amend 1974 PA 163, entitled "L.E.I.N. policy council act of 1974," by amending the title and sections 1, 2, 3, 4, and 5 (MCL 28.211, 28.212, 28.213, 28.214, and 28.215), section 4 as amended by 2000 PA 320, and by adding sections 1a and 3a; and to repeal acts and parts of acts.

**THE PEOPLE OF THE STATE OF MICHIGAN ENACT:**

TITLE

An act to provide for the creation of a ~~law enforcement information network~~ **CRIMINAL JUSTICE INFORMATION SYSTEMS** policy council; to provide for the establishment of policy and promulgation of rules governing ~~the use of the law enforcement information network~~ **ACCESS, USE, AND DISCLOSURE OF INFORMATION IN**

1 **CRIMINAL JUSTICE INFORMATION SYSTEMS; ~~and~~** to provide for the  
 2 ~~appointment and compensation~~ **REIMBURSEMENT** of **EXPENSES OF** council  
 3 members; **AND TO PROVIDE FOR PENALTIES.**

4 Sec. 1. This act shall be known and may be cited as the  
 5 ~~"L.E.I.N."~~ **"C.J.I.S. policy council act"**. ~~of 1974"~~.

6 **SEC. 1A. AS USED IN THIS ACT:**

7 (A) **"COUNCIL" OR "C.J.I.S." MEANS THE CRIMINAL JUSTICE**  
 8 **INFORMATION POLICY COUNCIL CREATED IN SECTION 2.**

9 (B) **"NONPUBLIC INFORMATION" MEANS INFORMATION TO WHICH ACCESS,**  
 10 **USE, OR DISSEMINATION IS RESTRICTED BY A LAW OR RULE OF THIS STATE**  
 11 **OR THE UNITED STATES.**

12 Sec. 2. (1) ~~There is created the law enforcement information~~  
 13 ~~network~~ **THE CRIMINAL JUSTICE INFORMATION** policy council ~~—~~  
 14 ~~hereafter referred to as the council, comprised~~ **IS CREATED IN THE**  
 15 **DEPARTMENT OF STATE POLICE. THE COUNCIL IS COMPOSED** of the  
 16 following members:

17 (a) The attorney general ~~—~~ or his ~~designated representative~~  
 18 **OR HER DESIGNEE.**

19 (b) The secretary of state ~~—~~ or his ~~designated~~  
 20 ~~representative~~ **OR HER DESIGNEE.**

21 (c) The director of the department of corrections ~~—~~ or his  
 22 ~~designated representative~~ **OR HER DESIGNEE.**

23 (d) The ~~commissioner~~ **CHIEF** of the Detroit police department  
 24 ~~—~~ or his ~~designated representative~~ **OR HER DESIGNEE.**

25 (E) **THE DIRECTOR OF THE DEPARTMENT OF STATE POLICE OR HIS OR**  
 26 **HER DESIGNEE.**

27 (F) ~~(e)~~ Three representatives of the department of state

1 police ~~, to be~~ appointed by the director of the department of  
2 state police.

3 (G) ~~(f)~~ Three representatives of the Michigan association of  
4 chiefs of police ~~, to be~~ appointed ~~annually~~ by that  
5 association.

6 (H) ~~(g)~~ ~~Three~~ **FOUR** representatives of the Michigan sheriffs'  
7 association ~~, to be~~ appointed ~~annually~~ by that association.

8 (I) ~~(h)~~ Three representatives of the prosecuting attorneys  
9 association of Michigan ~~to be~~ appointed ~~annually~~ by that  
10 association.

11 (J) **A REPRESENTATIVE OF THE MICHIGAN DISTRICT JUDGES**  
12 **ASSOCIATION APPOINTED BY THAT ASSOCIATION.**

13 (K) **A REPRESENTATIVE OF THE MICHIGAN JUDGES ASSOCIATION**  
14 **APPOINTED BY THAT ASSOCIATION.**

15 (L) **THE STATE COURT ADMINISTRATOR OR HIS OR HER DESIGNEE.**

16 (M) **AN INDIVIDUAL APPOINTED BY AND SERVING AT THE PLEASURE OF**  
17 **THE GOVERNOR WHO IS EMPLOYED IN OR ENGAGED IN THE PRIVATE SECURITY**  
18 **BUSINESS.**

19 (N) **AN INDIVIDUAL APPOINTED BY AND SERVING AT THE PLEASURE OF**  
20 **THE GOVERNOR WHO REPRESENTS HUMAN SERVICES CONCERNS IN THIS STATE.**

21 (O) **THE DIRECTOR OF THE DEPARTMENT OF INFORMATION TECHNOLOGY**  
22 **OR HIS OR HER DESIGNEE.**

23 (2) **THE APPOINTED MEMBERS OF THE COUNCIL SHALL SERVE 2-YEAR**  
24 **TERMS AND MAY BE REAPPOINTED.**

25 Sec. 3. (1) The council, ~~shall,~~ at its first meeting, **SHALL**  
26 elect from its membership a ~~chairman~~ **CHAIRPERSON**, who shall serve  
27 for 1 year. ~~Elections thereafter~~ **AN ELECTION FOR CHAIRPERSON**

1 shall be held annually. A ~~chairman may~~ **CHAIRPERSON**, if reelected,  
2 **MAY** succeed himself **OR HERSELF**. The council shall meet quarterly ~~—~~  
3 during the months of January, April, July, **AND** October ~~—, and at~~  
4 ~~other times the chairman deems necessary—~~ **OR MORE FREQUENTLY AT THE**  
5 **CALL OF THE CHAIRPERSON.**

6 (2) Council members shall serve without compensation, but  
7 ~~shall be~~ **ARE** entitled to actual expenses incurred during  
8 attendance at a regular or special council meeting and in traveling  
9 to and from a meeting.

10 (3) **A MAJORITY OF COUNCIL MEMBERS CONSTITUTE A QUORUM FOR**  
11 **CONDUCTING THE BUSINESS OF THE COUNCIL**

12 **SEC. 3A. (1) THE COUNCIL SHALL EXERCISE ITS PRESCRIBED POWERS,**  
13 **DUTIES, FUNCTIONS, AND RESPONSIBILITIES INDEPENDENTLY OF THE**  
14 **DIRECTOR OF THE DEPARTMENT OF STATE POLICE. THE BUDGETING,**  
15 **PROCUREMENT, AND RELATED MANAGEMENT FUNCTIONS OF THE COUNCIL SHALL**  
16 **BE PERFORMED UNDER THE DIRECTION AND SUPERVISION OF THE DIRECTOR OF**  
17 **THE DEPARTMENT OF STATE POLICE.**

18 (2) **THE EXECUTIVE SECRETARY OF THE COUNCIL SHALL BE APPOINTED**  
19 **BY THE DIRECTOR OF THE DEPARTMENT OF STATE POLICE SUBJECT TO THE**  
20 **APPROVAL OF THE COUNCIL.**

21 Sec. 4. (1) The council shall do all of the following:

22 (a) Establish policy and promulgate rules ~~—regarding the~~  
23 ~~operational procedures to be followed by agencies using—~~ **GOVERNING**  
24 **ACCESS, USE, AND DISCLOSURE OF INFORMATION IN CRIMINAL JUSTICE**  
25 **INFORMATION SYSTEMS, INCLUDING** the law enforcement information  
26 network, **THE AUTOMATED FINGERPRINT INFORMATION SYSTEM, AND OTHER**  
27 **INFORMATION SYSTEMS RELATED TO CRIMINAL JUSTICE OR LAW ENFORCEMENT.**

1 The policy and rules shall do all of the following:

2 (i) ENSURE ACCESS TO INFORMATION OBTAINED BY A FEDERAL, STATE,  
3 OR LOCAL GOVERNMENTAL AGENCY TO ADMINISTER CRIMINAL JUSTICE OR  
4 ENFORCE ANY LAW.

5 (ii) ~~(i)~~ Ensure access to ~~locator~~ information ~~obtained~~  
6 ~~through~~ PROVIDED BY the law enforcement information network ~~by~~  
7 ~~state and federal agencies and the friend of the court for~~ OR THE  
8 AUTOMATED FINGERPRINT IDENTIFICATION SYSTEM BY A GOVERNMENTAL  
9 AGENCY ENGAGED IN THE enforcement of child support ~~programs as~~  
10 ~~provided under state and federal law~~ LAWS, CHILD PROTECTION LAWS,  
11 OR VULNERABLE ADULT PROTECTION LAWS.

12 ~~(ii) Ensure access to information of an individual being~~  
13 ~~investigated by a state or county employee who is engaged in the~~  
14 ~~enforcement of the child protection laws or rules of this state.~~

15 (iii) Authorize a fire chief of an organized fire department or  
16 his or her designee to request and receive information obtained  
17 through the law enforcement information network by a law  
18 enforcement agency for the following purposes:

19 (A) A preemployment criminal convictions history.

20 (B) A preemployment driving record.

21 (C) Vehicle registration information for vehicles involved in  
22 a fire or hazardous materials incident.

23 (iv) Authorize a public or private school superintendent,  
24 principal, or assistant principal to receive vehicle registration  
25 information, of a vehicle within 1,000 feet of school property,  
26 obtained through the law enforcement information network by a law  
27 enforcement agency.

1           (v) AUTHORIZE THE ATTORNEY GENERAL OR A PROSECUTING ATTORNEY  
2 TO DISCLOSE TO A DEFENDANT, OR AN ATTORNEY OF RECORD REPRESENTING  
3 THAT DEFENDANT, INFORMATION PERTAINING TO THAT DEFENDANT.

4           (vi) ESTABLISH FEES FOR ACCESS, USE, OR DISSEMINATION OF  
5 INFORMATION FROM CRIMINAL JUSTICE INFORMATION SYSTEMS.

6           (b) Review applications for ~~network terminals~~ C.J.I.S.  
7 ACCESS and approve or disapprove the applications and the sites.  
8 ~~for terminal installations.~~ If an application is disapproved, the  
9 applicant shall be notified in writing of the reasons for  
10 disapproval.

11           (c) Establish minimum standards for ~~terminal sites~~ EQUIPMENT  
12 AND SOFTWARE and ITS installation.

13           (D) ADVISE THE GOVERNOR ON ISSUES CONCERNING THE CRIMINAL  
14 JUSTICE INFORMATION SYSTEMS.

15           (2) A PERSON HAVING DIRECT ACCESS TO NONPUBLIC INFORMATION IN  
16 THE INFORMATION SYSTEMS GOVERNED BY THIS ACT SHALL SUBMIT A SET OF  
17 FINGERPRINTS FOR COMPARISON WITH STATE AND FEDERAL CRIMINAL HISTORY  
18 RECORDS TO BE APPROVED FOR ACCESS PURSUANT TO THE C.J.I.S. SECURITY  
19 POLICY ISSUED BY THE COUNCIL. A REPORT OF THE COMPARISON SHALL BE  
20 PROVIDED TO THAT PERSON'S EMPLOYER.

21           (3) ~~(2)~~ A person shall not ACCESS, USE, OR disclose  
22 NONPUBLIC information ~~from the law enforcement information network~~  
23 ~~to a private entity for any purpose, including, but not limited to,~~  
24 ~~the enforcement of child support programs~~ GOVERNED UNDER THIS ACT  
25 FOR PERSONAL USE OR GAIN.

26           (4) ~~(3)~~ A person shall not disclose information ~~from the~~  
27 ~~law enforcement information network~~ GOVERNED UNDER THIS ACT in a

1 manner that is not authorized by law or rule.

2 (5) ~~(4)~~ A person who **INTENTIONALLY** violates subsection ~~(2)~~  
 3 ~~or~~ (3) **OR (4)** is **GUILTY OF A CRIME AS FOLLOWS:**

4 (a) For a first offense, **THE PERSON IS** guilty of a misdemeanor  
 5 punishable by imprisonment for not more than ~~90~~ **93** days or a fine  
 6 of not more than \$500.00, or both.

7 (b) For a second or subsequent offense, **THE PERSON IS** guilty  
 8 of a felony punishable by imprisonment for not more than 4 years or  
 9 a fine of not more than \$2,000.00, or both.

10 Sec. 5. The council may ~~remove terminals~~ **DO ANY OF THE**  
 11 **FOLLOWING:**

12 (A) **AUTHORIZE ACCESS TO PUBLIC RECORD INFORMATION TO ENHANCE**  
 13 **PUBLIC SAFETY OR CRIMINAL JUSTICE, AS PERMITTED BY LAW.**

14 (B) **SUSPEND OR DENY THE USE OF, AND ACCESS TO, INFORMATION**  
 15 **GOVERNED UNDER THIS ACT OR REMOVE ACCESS FROM AN AGENCY** if the  
 16 agency ~~or entity controlling the terminal fails to comply with the~~  
 17 ~~established~~ **VIOLATES** policies or promulgated rules of the council.

18 (C) **SUSPEND OR DENY DIRECT ACCESS TO INFORMATION TO AN**  
 19 **INDIVIDUAL WHO VIOLATES THIS ACT, POLICIES, OR PROMULGATED RULES OF**  
 20 **THE COUNCIL.**

21 Enacting section 1. The following acts and parts of acts are  
 22 repealed:

23 (a) Section 6 of the L.E.I.N. policy council act of 1974, 1974  
 24 PA 163, MCL 28.216.

25 (b) The A.F.I.S. policy council act, 1988 PA 307, MCL 28.151  
 26 to 28.158.