

SENATE BILL No. 648

June 28, 2005, Introduced by Senator BASHAM 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" MEANS THE CRIMINAL JUSTICE INFORMATION POLICY**
8 **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. A REPORT OF THE COMPARISON SHALL BE PROVIDED TO THAT
20 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 OR**
15 **REMOVE ACCESS FROM AN AGENCY** if the agency ~~or entity controlling~~
16 ~~the terminal fails to comply with the established~~ **VIOLATES**
17 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.