

Legislative Analysis



LAW ENFORCEMENT: DEFINE "REGULARLY EMPLOYED"

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House Bills 4779 and 5040

Sponsor: Rep. Goeff Hansen

Committee: Judiciary

Senate Bill 449 as passed by the Senate

Sponsor: Sen. Cameron S. Brown

Senate Committee: Homeland Security and Emerging Technologies

House Committee: Judiciary

Complete to 6-1-10

A SUMMARY OF HOUSE BILLS 4779 AND 5040 AS INTRODUCED AND SENATE BILL 449 AS PASSED BY THE SENATE

The bills would each amend the MCOLES Act to separately define the term "regularly employed," create a waiver for agencies that would face an undue hardship by the impact of the definition, and require the minimum standards for law enforcement officers to include instruction related to racial profiling.

Under the Commission on Law Enforcement Standards Act, a regularly employed person employed on or after January 1, 1977, as a member of a police force having a full-time officer is not empowered to exercise all the authority of a peace officer in Michigan, or be employed in a position for which the authority of a peace officer is conferred by statute, unless he or she has been certified by the Michigan Commission on Law Enforcement Standards (MCOLES). The act's definition of "police officer" or "law enforcement officer" includes a regularly employed member of a law enforcement agency authorized and established under law, including common law, who is responsible for the prevention and detection of crime and the enforcement of Michigan's general criminal laws. The term "regularly employed," however, is not defined in the statute.

House Bill 4779 would amend the Commission on Law Enforcement Standards Act (MCL 28.609). If the MCOLES adopted a standard that prescribed a minimum number of annual hours of employment for the purpose of determining who was a regularly employed person, the commission would also be required to adopt and implement a waiver process by which a law enforcement agency could apply for and receive a waiver from that standard for good cause shown.

House Bill 5040 would amend the MCOLES Act (MCL 28.602 and 28.609) to define "regularly employed" to mean to be employed by a police force or law enforcement agency for more than 120 hours annually. However, if any law enforcement agency could demonstrate to the commission that it would be unduly burdened by the requirement that its officers be employed for more than 120 hours annually, the

commission would be authorized to grant a waiver of that requirement to that law enforcement agency.

Senate Bill 449 would also amend Sections 2 and 9 of the MCOLES Act (MCL 28.602 and 28.609). The bill would also define "regularly employed" to mean to be employed by a police force or law enforcement agency for more than 120 hours annually.

Currently, the commission is required to promulgate rules to establish law enforcement officer minimum standards. The bill would also require the establishment of "guidelines."

In addition, the bill would require the minimum standards and guidelines to include minimum courses of instruction on all of the following: racial profiling; understanding of and respect for racial and cultural differences; and noncombative methods of carrying out law enforcement duties in a racially and culturally diverse environment.

The minimum standards and guidelines would also have to include guidelines that identify the patterns, practices, and protocols that make up racial profiling. These guidelines would have to be made available by the commission to all law enforcement agencies.

FISCAL IMPACT:

The bills would have an indeterminate fiscal impact.

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■ This analysis was prepared by nonpartisan House staff for use by House members in their deliberations, and does not constitute an official statement of legislative intent.