

SENATE BILL No. 1149

November 8, 2018, Introduced by Senator JONES and referred to the Committee on Judiciary.

A bill to amend 2017 PA 128, entitled
"Law enforcement officer separation of service record act,"
by amending section 5 (MCL 28.565).

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1 Sec. 5. (1) A law enforcement officer who is licensed or who
2 was previously licensed or certified under the Michigan commission
3 on law enforcement standards act, 1965 PA 203, MCL 28.601 to
4 28.615, and was previously employed as a law enforcement officer in
5 this state, who separates from his or her employing law enforcement
6 agency or from employment as a law enforcement officer to whom an
7 oath of office has been administered under section 9c or 9d of the
8 Michigan commission on law enforcement standards act, **1965 PA 203**,
9 MCL 28.609c and 28.609d, and who subsequently seeks to become
10 reemployed as a law enforcement officer in this state, shall
11 provide to the prospective employing law enforcement agency, upon

1 **RECEIVING A CONDITIONAL** offer of employment, a signed waiver. A
2 waiver executed under this subsection must expressly allow the
3 prospective employing law enforcement agency to contact the law
4 enforcement officer's former employing law enforcement agency or
5 agencies and seek a copy of the record regarding the reason or
6 reasons for, and circumstances surrounding, his or her separation
7 of service created by his or her former employing law enforcement
8 agency or agencies under section 3.

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

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

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

27 (5) A former employing law enforcement agency that discloses

1 information under this section in good faith after receipt of a
2 waiver executed under subsection (1) is immune from civil liability
3 for the disclosure. A former employing law enforcement agency is
4 presumed to be acting in good faith at the time of a disclosure
5 under this section unless a preponderance of the evidence
6 establishes 1 or more of the following:

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

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

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

13 (6) A PROSPECTIVE EMPLOYING LAW ENFORCEMENT AGENCY THAT
14 RECEIVES A RECORD MAINTAINED UNDER SECTION 3 FROM THE LAW
15 ENFORCEMENT OFFICER'S FORMER EMPLOYING LAW ENFORCEMENT AGENCY OR
16 AGENCIES SHALL, UPON WRITTEN REQUEST FROM THE COMMISSION, PROVIDE A
17 COPY OF THE RECORD REQUESTED TO THE COMMISSION FOR THE PURPOSE OF
18 DETERMINING COMPLIANCE WITH LICENSING STANDARDS AND PROCEDURES
19 UNDER THE MICHIGAN COMMISSION ON LAW ENFORCEMENT STANDARDS ACT,
20 1965 PA 203, MCL 28.601 TO 28.615.

21 (7) A LAW ENFORCEMENT AGENCY THAT IS REQUIRED TO MAINTAIN A
22 RECORD UNDER SECTION 3 SHALL, UPON WRITTEN REQUEST FROM THE
23 COMMISSION, PROVIDE A COPY OF THE RECORD REQUESTED TO THE
24 COMMISSION FOR THE PURPOSE OF DETERMINING COMPLIANCE WITH LICENSING
25 STANDARDS AND PROCEDURES UNDER THE MICHIGAN COMMISSION ON LAW
26 ENFORCEMENT STANDARDS ACT, 1965 PA 203, MCL 28.601 TO 28.615.

27 Enacting section 1. This amendatory act takes effect 90 days

1 after the date it is enacted into law.