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## BILL ANALYSIS



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Senate Bill 945 (as introduced 5-28-20)  
Sponsor: Senator Jeff Irwin  
Committee: Judiciary and Public Safety

Date Completed: 6-3-20

**CONTENT**

**The bill would amend the Michigan Commission on Law Enforcement Standards Act to do the following:**

- **Require the Michigan Commission Law Enforcement Standards (MCOLES) to promulgate, by September 1, 2021, rules establishing minimum standards for training in de-escalation techniques, implicit bias training, procedural justice training, and mental health resources and support available for law enforcement officers.**
- **Beginning January 1, 2022, require an individual seeking to become a licensed law enforcement officer, tribal law enforcement officer, fire arson investigator, or private college security officer to complete training in de-escalation techniques, implicit bias training, procedural justice training, and mental health resources and support available for law enforcement officers.**
- **Require an individual licensed as a law enforcement officer, tribal law enforcement officer, fire arson investigator, or private college security officer on December 31, 2021, who had not completed the training described above to complete training that met the minimum standards described below.**
- **Allow an individual seeking to become a law enforcement officer licensed under the Act or a person who was already a licensed law enforcement officer to meet the minimum standards for implicit bias training by completing an implicit bias training course offered by the United States Department of Justice.**
- **Require each law enforcement agency in Michigan to adopt, by January 1, 2022, a written policy stating that its officers had an affirmative duty to use de-escalation techniques whenever possible.**
- **Require the Attorney General to provide, by November 30, 2021, written guidance to law enforcement agencies in Michigan that employed law enforcement officers, tribal law enforcement officers, fire arson investigators, or private college security officers with regard to compliance with the minimum standards described above.**

Sections 9, 9b, 9c, and 9d of the Act govern the licensure of the following categories of law enforcement officers, respectively: law enforcement officers except individuals to whom Sections 9a (sheriffs) through 9d apply, Michigan tribal law enforcement officers authorized to enforce State law, fire arson investigators from fire departments within local units of government, and private college security officers. Employment of each category of law enforcement officer is subject to the licensing requirements and procedures of its respective section and Section 9e. (Section 9e requires a law enforcement officer licensed under Section

9, 9b, 9c, or 9d to complete active violence training). Under the bill, employment also would be subject to the requirements of Section 9f, which the bill would add.

In addition, Sections 9, 9b, 9c, and 9d require MCOLES to promulgate rules governing licensing standards and procedures pertaining to training requirements, among other things. The promulgated rules are subject to Section 9e, which requires MCOLES to promulgate rules establishing minimum standards for active violence response training. Under the bill, rules promulgated for training requirements also would be subject to Section 9f.

Under Section 9f, by September 1, 2021, MCOLES would have to promulgate rules establishing the minimum standards for training in all of the following areas:

- De-escalation techniques.
- Implicit bias training.
- Procedural justice training.
- Mental health resources and support available for law enforcement officers.

"De-escalation" would mean a method or methods for assessing and managing a situation in order to resolve it with the least use of force that is safe and practicable by a law enforcement officer. "Implicit bias training" would mean an evidence-based program to provide fair and impartial law enforcement by increasing awareness of and improving response strategies to conscious bias. "Procedural justice training" would mean a system of law enforcement that prioritizes legitimacy over deterrence in obtaining citizen compliance with law enforcement directions and emphasizes fair process and respectful two-way communication conveying the rationale behind directions given by a law enforcement officer to a citizen.

The minimum standards for training on de-escalation techniques would have to include all of the following:

- The use of alternate nonlethal methods of applying force and techniques that would prevent a law enforcement officer from escalating any situation in which force was likely to be used.
- Verbal and physical tactics to minimize the need for the use of force, with an emphasis on communication, negotiation, de-escalation techniques, and providing the time needed to resolve the incident safely for each individual involved.
- The use of the lowest level of force that was a possible and safe response to an identified threat and reevaluation of an identified threat as it progressed.
- Techniques that would provide all officers with awareness and recognition of physical and mental disabilities, mental health issues, and substance abuse issues with an emphasis on communication strategies, and training officers simultaneously in teams on de-escalation and use of force to improve group dynamics and diminish excessive force during critical incidents.
- Principles of using distance, cover, and time when approaching and managing critical incidents, and elimination of other techniques in favor of using distance and cover to create a reaction gap.
- Crisis intervention strategies to appropriately identify and respond to an individual suffering from physical or mental disabilities, mental health issues, or substance abuse issues, with an emphasis on de-escalation techniques and prompting effective communication.
- Other evidence-based approaches, found to be appropriate by the Commission, that would enhance de-escalation techniques and skills.

"Reaction gap" would mean the minimum amount of distance necessary to ensure that a law enforcement officer is able to react appropriately to a potential threat.

An individual seeking to become a law enforcement officer licensed under the Act or a person who was already a licensed law enforcement officer could meet the minimum standards for implicit bias training by completing an implicit bias training course offered by the US Department of Justice.

Beginning January 1, 2022, an individual who was seeking to become licensed as a law enforcement officer under Section 9, 9b, 9c, or 9d would have to complete training that met the minimum standards under Section 9f. A law enforcement officer who was licensed under Section 9, 9b, 9c, or 9d on December 31, 2021, and who had not previously completed the required training would have to complete training that met the minimum standards. Also, by that date, each law enforcement agency in the State would have to adopt a written policy stating that each of the law enforcement officers in its employ had an affirmative duty to use de-escalation techniques in his or her interactions with individuals whenever possible.

The Commission would have to make available on its website a model written policy meeting the above requirements. A law enforcement agency could fulfill its duty by adopting the model written policy.

By November 30, 2021, the Attorney General would have to provide written guidance to the law enforcement agencies in Michigan that employed law enforcement officers licensed under Section 9, 9b, 9c, or 9d with regard to compliance with the minimum standards under Section 9f.

The Attorney General would have to collect data regarding the implementation of training programs and would have to provide an annual report to the Legislature describing that data.

MCL 28.609 et al.

Legislative Analyst: Stephen Jackson

### **FISCAL IMPACT**

The bill would have a fiscal impact on MCOLES, law enforcement training academies, and local law enforcement agencies to the extent that changes to training standards for those licensed under MCOLES would require additional administrative costs in an amount that cannot be determined at this time. In addition, the bill would require the Attorney General to provide written guidance to law enforcement agencies in Michigan that employ those licensed under MCOLES to assist with compliance with minimum standards adopted under the bill, and to collect data on the bill's implementation and provide an annual report to the Legislature describing the data.

Major responsibility for the bill's provisions would fall under MCOLES, the State agency that sets professional standards for the education, selection, employment, licensing, and license revocation of law enforcement personnel. The agency has a current fiscal year (FY) 2019-20 appropriation of \$10,995,500 gross, \$250,000 Federal, \$9,474,300 restricted, and \$1,271,200 General Fund/General Purpose dollars.

The Justice Training Fund, first established under Public Act 302 of 1982, provides an appropriated amount of \$6,939,300 in restricted fund support for MCOLES, revenue that comes from fine assessments. These restricted funds are authorized to be spent between two training grant programs; 60% is to go to local agencies on a per-capita basis (of certified officers), and 40% for MCOLES administrative costs and a competitive training grant program for law enforcement agencies. Despite the appropriated amount, the actual restricted funds available for spending in FY 2019-20 may be \$4.8 million or less because of declining annual fine revenue collections that have seen a reduction of \$1.0 million since 2010.

Training academies that would be involved in implementing the bill's provisions would include 12 regional police training academies (often college- or community college-based), three agency academies (Michigan State Police, Michigan Department of Natural Resources, and Detroit Metropolitan Police), and five preservice track programs (academic, plus police training). Law enforcement agencies also would have responsibilities under the bill, which currently number 581 traditional and specialized agencies, employing approximately 19,000 certified law enforcement officers.

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.