

HOUSE BILL NO. 5281

October 26, 2023, Introduced by Reps. Dievendorf, Rheingans, Wilson, Morgan, Tsernoglou and Wegela and referred to the Committee on Judiciary.

A bill to create the law enforcement accountability reform act; to prohibit the licensing and hiring of law enforcement officers that are members of certain extremist groups; and to provide for the powers and duties of certain state and local governmental officers and entities.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1 Sec. 1. This act may be cited as the "law enforcement
2 accountability reform act".

3 Sec. 3. As used in this act:

1 (a) "Commission" means the Michigan commission on law
2 enforcement standards created under section 3 of the Michigan
3 commission on law enforcement standards act, 1965 PA 203, MCL
4 28.603.

5 (b) "Department" means the department of attorney general.

6 (c) "Genocide" means any of the following acts committed with
7 specific intent to destroy, in whole or substantially in part, a
8 national, an ethnic, a racial, or a religious group:

9 (i) Killing or causing serious bodily injury to members of the
10 group.

11 (ii) Causing permanent impairment of the mental faculties of
12 members of the group through drugs, torture, or similar means.

13 (iii) Subjecting members of the group to conditions of life that
14 are intended to cause physical destruction of the group.

15 (iv) Imposing measures that are intended to prevent members of
16 the group from procreating.

17 (v) Forcibly transferring children of members of the group to
18 another group.

19 (d) "Hate crime" means a crime motivated by prejudice based on
20 the actual or perceived race, color, religion, sex, sexual
21 orientation, gender identity or expression, physical or mental
22 disability, age, ethnicity, or national origin of an individual,
23 regardless of the existence of any other motivating factor.

24 (e) "Hate group" means an organization that supports,
25 advocates for, threatens, or practices genocide or the commission
26 of hate crimes.

27 (f) "Law enforcement agency" means that term as defined in
28 section 2 of the Michigan commission on law enforcement standards
29 act, 1965 PA 203, MCL 28.602.

1 (g) "Law enforcement officer" means that term as defined in
2 section 2 of the Michigan commission on law enforcement standards
3 act, 1965 PA 203, MCL 28.602.

4 (h) "Membership in a hate group" means being, or holding
5 oneself out as, a member of a hate group with the intent to further
6 the unlawful aims of the group.

7 (i) "Participation in any hate group activity" means active
8 and direct involvement in, or coordination or facilitation of, any
9 hate crime by a member of a hate group.

10 (j) "Public expression of hate" means any statement or
11 expression to another individual, including any statement or
12 expression made in an online forum that is accessible to another
13 individual, that explicitly advocates for, explicitly supports, or
14 explicitly threatens to commit genocide or any hate crime or that
15 explicitly advocates for or explicitly supports any hate group.

16 (k) "Sustained" means a final determination by the department
17 following an investigation that an allegation of membership in a
18 hate group or participation in a hate group activity or public
19 expression of hate is true.

20 Sec. 5. (1) Beginning on the effective date of this act, any
21 background investigation of an individual before licensure as a law
22 enforcement officer by the commission under the Michigan commission
23 on law enforcement standards act, 1965 PA 203, MCL 28.601 to
24 28.615, must include an inquiry into whether the individual is a
25 member of a hate group, or participates in a hate group activity or
26 public expression of hate.

27 (2) Beginning on the effective date of this act, and except as
28 otherwise provided in subsection (3), a law enforcement agency
29 shall not employ a law enforcement officer if, during the

1 preemployment background investigation, the law enforcement agency
2 determines that in the past 7 years and since the age of 18 years
3 of age, the law enforcement officer was a member of a hate group or
4 participated in a hate group activity or public expression of hate.

5 (3) Subsection (2) does not apply if the law enforcement
6 officer shows that the law enforcement officer has ceased all
7 activities described under subsection (2) and at least 7 years have
8 passed since the law enforcement officer last engaged in an
9 activity described under subsection (2).

10 Sec. 7. (1) Notwithstanding any provision of law to the
11 contrary, an employing law enforcement agency shall investigate an
12 allegation or refer the investigation of an allegation to the
13 department, if a member of the public files a complaint alleging
14 with sufficient particularity that in the previous 7 years and
15 since 18 years of age, the law enforcement officer employed by that
16 law enforcement agency was a member of a hate group or participated
17 in a hate group activity or public expression of hate.

18 (2) If an allegation described under subsection (1) against a
19 law enforcement officer is sustained, the commission shall revoke a
20 license issued to the law enforcement officer under the Michigan
21 commission on law enforcement standards act, 1965 PA 203, MCL
22 28.601 to 28.615.

23 Sec. 9. The department shall adopt and promulgate rules for
24 the investigation and adjudication of a complaint under this act.

25 Sec. 11. (1) A record created pursuant to an investigation of
26 an allegation described under section 7(1) is not confidential and
27 must be disclosed in accordance with the freedom of information
28 act, 1976 PA 442, MCL 15.231 to 15.246.

29 (2) Redaction of a record created pursuant to an investigation

1 of an allegation described under section 7(1) may be permitted as
2 follows:

3 (a) To the extent that the freedom of information act, 1976 PA
4 442, MCL 15.231 to 15.246, permits the redaction of the
5 information.

6 (b) To remove personal information. As used in this
7 subdivision, "personal information" means information that
8 identifies an individual, including the individual's home address,
9 email address, telephone number, and medical and disability
10 information.

11 (c) To preserve the anonymity of a complainant or witness.

12 (d) To comply with a federal law that prohibits the disclosure
13 of that information.

14 (e) To the extent that the redacted information, if made
15 public, would endanger the life or safety of a law enforcement
16 officer or an individual.

17 (f) To the extent that the disclosure of the information would
18 cause unwarranted invasion of personal privacy that clearly
19 outweighs the strong public interest in the record.

20 Sec. 13. This act does not authorize or require adverse action
21 to be taken against a law enforcement officer if any of the
22 following apply:

23 (a) The law enforcement officer engaged in any of the
24 activities described under this act as part of any undercover
25 assignment in the course of that law enforcement officer's duty as
26 a law enforcement officer.

27 (b) The law enforcement officer engaged in any of the
28 activities described under this act as part of an undercover
29 assignment for purposes of academic or journalistic research.

1 Enacting section 1. This act does not take effect unless
2 Senate Bill No.____ or House Bill No. 5282 (request no. 02640'23 a)
3 of the 102nd Legislature is enacted into law.