



**House
Legislative
Analysis
Section**

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ACCESS TO CERTAIN POLICE RECORDS

House Bill 4584 as introduced
First Analysis (5-14-87)

RECEIVED

JUN 02 1987

Sponsor: Rep. Debbie Farhat
Committee: Judiciary

Mich. State Law Library

THE APPARENT PROBLEM:

Michigan law allows a person who has had one criminal conviction to, after a period of at least five years (or completion of a prison sentence if more than five years), apply to the court to have his or her criminal record expunged (however, this is not available for felonies punishable by life in prison, nor for traffic offenses). The law on criminal record expungement requires the state police to maintain a nonpublic record on each expunged conviction. This nonpublic record may be made available only to certain authorities for certain purposes. (For instance, courts may obtain the record to consider in sentencing for a subsequent conviction, and the Board of Law Examiners may obtain a record for consideration in a licensure matter.) The state police and other law enforcement agencies argue that law enforcement agencies should be able to screen applicants for prior convictions, even if those convictions have been expunged. The state police cite as an example a recent state trooper applicant who was charged with murder, convicted of manslaughter, and had the conviction expunged. Law enforcement agencies urge that the expungement law be amended so that they may ascertain whether any of their job applicants have had criminal convictions and use that information in evaluating applicants.

THE CONTENT OF THE BILL:

Under Public Act 213 of 1965, the state police maintain nonpublic records of criminal convictions that have been expunged, and release these records only as specifically authorized by the law. The bill would allow a law enforcement agency to obtain and consider the record of a person's expunged conviction when that person applied for employment with the agency.

MCL 780.623

FISCAL IMPLICATIONS:

The House Fiscal Agency says that the bill would have minimal fiscal implications. (5-13-87)

ARGUMENTS:

For:

A position in law enforcement carries exceptional responsibilities, and a person's criminal record, even if expunged, should be available to law enforcement agencies considering that person for employment. Under Michigan's civil rights act, it is not discriminatory to consider a person's record of convictions.

Against:

The expungement law provides relief for a person who has committed only one crime in a lifetime, and frees that person from the stigma attached to having once erred and committed a crime. The expunged conviction record should not be available to an employer, even if that employer is a law enforcement agency.

POSITIONS:

The Department of State Police supports the bill. (5-13-87)

The Michigan Sheriffs' Association supports the bill. (5-13-87)

H.B. 4583 (5-14-87)