Legislative Analysis

C.J.I.S. COUNCIL CODIFICATION

House Bill 5275
Sponsor: Rep. Gary A. Newell

House Bill 5277
Sponsor: Rep. Paul Condino

Senate Bill 648
Sponsor: Sen. Raymond E. Basham

House Committee: Judiciary
Senate Committee: Judiciary

Complete to 10-17-05

A SUMMARY OF HOUSE BILLS 5275 AND 5276 AS INTRODUCED 10-6-05 AND SENATE BILL 648 AS PASSED BY THE SENATE 9-7-05

Executive Reorganization Order No. 1998-1 created the Criminal Justice Information Systems (CJIS) Policy Council; abolished the A.F.I.S. (Automated Fingerprint Identification System) Policy Council; and transferred all the statutory authority, powers, duties, functions, and responsibilities of the A.F.I.S. Policy Council to the CJIS Policy Council.

House Bill 5275 and Senate Bill 648 are virtually identical and would, among other things, amend the L.E.I.N. Policy Council Act to codify Executive Reorganization Order No. 1998-1 (MCL 28.161), rename the act as the C.J.I.S. Policy Council Act, and repeal the A.F.I.S. Council Act.   The bills would also do the following:

- Define "nonpublic information" as information to which access, use, or dissemination was restricted by a law or rule of this state or the U.S.
- Expand the council's membership to include the director of the Department of Information Technology or his or her designee.
- Increase the maximum term of imprisonment for a violation of the act constituting a first offense from 90 to 93 days; and apply the criminal penalties only to intentional violations.
- Require that the policy and rules ensure access to information obtained by a federal, state, or local governmental agency to administer criminal justice or enforce any law, and ensure access to information provided by LEIN or the Automated Fingerprint Identification System (AFIS) by a governmental agency engaged in the enforcement of child support laws or vulnerable adult protection laws.

- Authorize the attorney general or a prosecuting attorney (SB 648 would include "the court") to disclose to a defendant, or an attorney of record representing that defendant, information pertaining to that defendant.
- Establish fees for access, use, or dissemination of information from criminal justice information systems.
- Prohibit accessing, using, or disclosing nonpublic information governed under the C.J.I.S. act for personal use or gain.
- Require the council to advise the governor on issues concerning the C.J.I.S.
- Require the council to require all persons having direct access to nonpublic information in the information systems governed by the C.J.I.S. Act to be approved for access under a security policy issued by the council; this would include requiring each person to undergo a state and federal fingerprint check.
- Allow the council to authorize access to public record information to enhance public safety or criminal justice, and also to suspend or deny use of or access to information by an agency or individual who violated council policy or rules.
- Repeal Section 6 of the L.E.I.N. Policy Act (MCL 28.216), which pertains to the purchase of computer hardware or software.

House Bill 5277 would amend the same act (MCL 28.214) to allow, in a criminal case, the attorney general or his or her designee, a prosecuting attorney, or the court to disclose to a defendant or his or her attorney of record information pertaining to the defendant that had been obtained from the law enforcement system.

FISCAL IMPACT:

HB 5275 and SB 648 would have an indeterminate fiscal impact on state government; however, some small administrative costs could be incurred similar to those of the current LEIN policy council. HB 5277 would have no fiscal impact on state or local government.

Legislative Analyst: Susan Stutzky
Fiscal Analyst: Jan Wisniewski