

HOUSE BILL No. 5040

June 4, 2009, Introduced by Reps. Hansen, Wayne Schmidt, Griffin, Corriveau, Scripps, Slezak, LeBlanc, Terry Brown, Espinoza, Horn, Haveman, Caul, Lahti, Lindberg, Ball, Meekhof, Pavlov, Walsh, Rick Jones, Kurtz, Valentine, Dean, Nerat, Agema, Stamas, Lori, Opsommer, Moore, Proos, Pearce, Genetski and Schuitmaker and referred to the Committee on Judiciary.

A bill to amend 1965 PA 203, entitled
"Commission on law enforcement standards act,"
by amending sections 2 and 9 (MCL 28.602 and 28.609), section 2 as
amended by 2004 PA 379 and section 9 as amended by 2005 PA 239.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1 Sec. 2. As used in this act:

2 (a) "Certificate" means a numbered document issued by the
3 commission to a person who has received certification under this
4 act.

5 (b) "Certification" means either of the following:

6 (i) A determination by the commission that a person meets the
7 law enforcement officer minimum standards to be employed as a

1 commission certified law enforcement officer and that the person is
2 authorized under this act to be employed as a law enforcement
3 officer.

4 (ii) A determination by the commission that a person was
5 employed as a law enforcement officer before January 1, 1977 and
6 that the person is authorized under this act to be employed as a
7 law enforcement officer.

8 (c) "Commission" means the commission on law enforcement
9 standards created in section 3.

10 (d) "Contested case" means that term as defined in section 3
11 of the administrative procedures act of 1969, 1969 PA 306, MCL
12 24.203.

13 (e) "Executive director" means the executive director of the
14 commission appointed under section 12.

15 (f) "Felony" means a violation of a penal law of this state or
16 another state that is either of the following:

17 (i) Punishable by a term of imprisonment greater than 1 year.

18 (ii) Expressly designated a felony by statute.

19 (g) "Fund" means the law enforcement officers training fund
20 created in section 13.

21 (h) "Law enforcement officer minimum standards" means
22 standards established by the commission under this act that a
23 person must meet to be eligible for certification under section
24 9a(1).

25 (i) "Law enforcement officer of a Michigan Indian tribal
26 police force" means a regularly employed member of a police force
27 of a Michigan Indian tribe who is appointed pursuant to former 25

1 CFR 12.100 to 12.103.

2 (j) "Michigan Indian tribe" means a federally recognized
3 Indian tribe that has trust lands located within this state.

4 (k) "Multicounty metropolitan district" means an entity
5 authorized and established pursuant to state law by 2 or more
6 counties with a combined population of not less than 3,000,000, for
7 the purpose of cooperative planning, promoting, acquiring,
8 constructing, owning, developing, maintaining, or operating parks.

9 (l) "Police officer" or "law enforcement officer" means,
10 unless the context requires otherwise, any of the following:

11 (i) A regularly employed member of a law enforcement agency
12 authorized and established pursuant to law, including common law,
13 who is responsible for the prevention and detection of crime and
14 the enforcement of the general criminal laws of this state. Police
15 officer or law enforcement officer does not include a person
16 serving solely because he or she occupies any other office or
17 position.

18 (ii) A law enforcement officer of a Michigan Indian tribal
19 police force, subject to the limitations set forth in section 9(3).

20 (iii) The sergeant at arms or any assistant sergeant at arms of
21 either house of the legislature who is commissioned as a police
22 officer by that respective house of the legislature as provided by
23 the legislative sergeant at arms police powers act, 2001 PA 185,
24 MCL 4.381 to 4.382.

25 (iv) A law enforcement officer of a multicounty metropolitan
26 district, subject to the limitations of section 9(7).

27 (v) A county prosecuting attorney's investigator sworn and

1 fully empowered by the sheriff of that county.

2 (vi) Until December 31, 2007, a law enforcement officer of a
3 school district in this state that has a membership of at least
4 20,000 pupils and that includes in its territory a city with a
5 population of at least 180,000 as of the most recent federal
6 decennial census.

7 (vii) A fire arson investigator from a fire department within a
8 city with a population of not less than 750,000 who is sworn and
9 fully empowered by the city chief of police.

10 **(M) "REGULARLY EMPLOYED" MEANS TO BE EMPLOYED BY A POLICE**
11 **FORCE OR LAW ENFORCEMENT AGENCY FOR MORE THAN 120 HOURS ANNUALLY.**

12 **(N)** ~~(m)~~—"Rule" means a rule promulgated pursuant to the
13 administrative procedures act of 1969, 1969 PA 306, MCL 24.201 to
14 24.328.

15 Sec. 9. (1) The commission shall promulgate rules to establish
16 law enforcement officer minimum standards. The rules do not apply
17 to a member of a sheriff's posse or a police auxiliary temporarily
18 performing his or her duty under the direction of the sheriff or
19 police department. In promulgating the law enforcement officer
20 minimum standards, the commission shall give consideration to the
21 varying factors and special requirements of local police agencies.
22 The law enforcement officer minimum standards shall include all of
23 the following:

24 (a) Minimum standards of physical, educational, mental, and
25 moral fitness that govern the recruitment, selection, appointment,
26 and certification of law enforcement officers.

27 (b) Minimum courses of study, attendance requirements, and

1 instructional hours required at approved police training schools.

2 (c) Minimum basic training requirements that a person,
3 excluding sheriffs, shall complete before being eligible for
4 certification under section 9a(1).

5 (2) If a person's certification under section 9a(1) becomes
6 void under section 9a(4)(b), the commission shall waive the
7 requirements described in subsection (1)(b) for certification of
8 the person under section 9a(1) if 1 or more of the following apply:

9 (a) The person has been employed 1 year or less as a
10 commission certified law enforcement officer and is again employed
11 as a law enforcement officer within 1 year after discontinuing
12 employment as a commission certified law enforcement officer.

13 (b) The person has been employed more than 1 year but less
14 than 5 years as a commission certified law enforcement officer and
15 is again employed as a law enforcement officer within 18 months
16 after discontinuing employment as a commission certified law
17 enforcement officer.

18 (c) The person has been employed 5 years or more as a
19 commission certified law enforcement officer and is again employed
20 as a law enforcement officer within 2 years after discontinuing
21 employment as a commission certified law enforcement officer.

22 (d) The person has successfully completed the mandatory
23 training and has been continuously employed as a law enforcement
24 officer, but through no fault of that person the employing agency
25 failed to obtain certification for that person as required by this
26 act.

27 (3) A commission certified law enforcement officer who is a

1 member of any of the reserve components of the United States armed
2 forces and who is called to active duty in the armed forces is not
3 considered to have discontinued his or her employment as a
4 commission certified law enforcement officer under section
5 9a(4)(b). The person's certification under section 9a(1) shall not
6 become void during that term of active military service. However,
7 the certification of a certified law enforcement officer described
8 in this subsection may be revoked under section 9b if the officer
9 committed an offense during the period of active duty in the armed
10 forces that resulted in a conviction enumerated in section 9b(1).
11 As used in this subsection, "reserve components of the United
12 States armed forces" means that term as defined in section 2 of the
13 military family relief fund act, 2004 PA 363, MCL 35.1212. This
14 subsection does not apply to a commission certified law enforcement
15 officer who volunteers for a term of active military service or who
16 voluntarily extends a term of active military service that began
17 when he or she was called to active duty. This subsection does not
18 apply to a commission certified law enforcement officer who is
19 dishonorably discharged from a term of active military service.

20 (4) The commission shall promulgate rules with respect to all
21 of the following:

22 (a) The categories or classifications of advanced in-service
23 training programs for commission certified law enforcement officers
24 and minimum courses of study and attendance requirements for the
25 categories or classifications.

26 (b) The establishment of subordinate regional training centers
27 in strategic geographic locations in order to serve the greatest

1 number of police agencies that are unable to support their own
2 training programs.

3 (c) The commission's acceptance of certified basic police
4 training and law enforcement experience received by a person in
5 another state in fulfillment in whole or in part of the law
6 enforcement officer minimum standards.

7 (d) The commission's approval of police training schools
8 administered by a city, county, township, village, corporation,
9 college, community college or university.

10 (e) The minimum qualifications for instructors at approved
11 police training schools.

12 (f) The minimum facilities and equipment required at approved
13 police training schools.

14 (g) The establishment of preservice basic training programs at
15 colleges and universities.

16 (h) Acceptance of basic police training and law enforcement
17 experience received by a person in fulfillment in whole or in part
18 of the law enforcement officer minimum standards prepared and
19 published by the commission if both of the following apply:

20 (i) The person successfully completed the basic police training
21 in another state or through a federally operated police training
22 school that was sufficient to fulfill the minimum standards
23 required by federal law to be appointed as a law enforcement
24 officer of a Michigan Indian tribal police force.

25 (ii) The person is or was a law enforcement officer of a
26 Michigan Indian tribal police force for a period of 1 year or more.

27 (5) Except as otherwise provided in this section, a regularly

1 employed person employed on or after January 1, 1977 as a member of
2 a police force having a full-time officer is not empowered to
3 exercise all the authority of a peace officer in this state, or be
4 employed in a position for which the authority of a peace officer
5 is conferred by statute, unless the person has received
6 certification under section 9a(1). **HOWEVER, IF ANY LAW ENFORCEMENT**
7 **AGENCY CAN DEMONSTRATE TO THE COMMISSION THAT THE LAW ENFORCEMENT**
8 **AGENCY WOULD BE UNDULY BURDENED BY THE REQUIREMENT THAT ITS**
9 **OFFICERS BE EMPLOYED FOR MORE THAN 120 HOURS ANNUALLY, THE**
10 **COMMISSION MAY GRANT A WAIVER OF THAT REQUIREMENT TO THAT LAW**
11 **ENFORCEMENT AGENCY.**

12 (6) A law enforcement officer employed before January 1, 1977
13 may continue his or her employment as a law enforcement officer and
14 participate in training programs on a voluntary or assigned basis
15 but failure to obtain certification under section 9a(1) or (2) is
16 not grounds for dismissal of or termination of that employment as a
17 law enforcement officer. A person who was employed as a law
18 enforcement officer before January 1, 1977 who fails to obtain
19 certification under section 9a(1) and who voluntarily or
20 involuntarily discontinues his or her employment as a law
21 enforcement officer may be employed as a law enforcement officer if
22 he or she was employed 5 years or more as a law enforcement officer
23 and is again employed as a law enforcement officer within 2 years
24 after discontinuing employment as a law enforcement officer.

25 (7) A law enforcement officer of a Michigan Indian tribal
26 police force is not empowered to exercise the authority of a peace
27 officer under the laws of this state and shall not be employed in a

1 position for which peace officer authority is granted under the
2 laws of this state unless all of the following requirements are
3 met:

4 (a) The tribal law enforcement officer is certified under this
5 act.

6 (b) The tribal law enforcement officer is 1 of the following:

7 (i) Deputized by the sheriff of the county in which the trust
8 lands of the Michigan Indian tribe employing the tribal law
9 enforcement officer are located, or by the sheriff of any county
10 that borders the trust lands of that Michigan Indian tribe,
11 pursuant to section 70 of 1846 RS 14, MCL 51.70.

12 (ii) Appointed as a police officer of the state or a city,
13 township, charter township, or village that is authorized by law to
14 appoint individuals as police officers.

15 (c) The deputation or appointment of the tribal law
16 enforcement officer described in subdivision (b) is made pursuant
17 to a written contract that includes terms the appointing authority
18 under subdivision (b) may require between the state or local law
19 enforcement agency and the tribal government of the Michigan Indian
20 tribe employing the tribal law enforcement officer.

21 (d) The written contract described in subdivision (c) is
22 incorporated into a self-determination contract, grant agreement,
23 or cooperative agreement between the United States secretary of the
24 interior and the tribal government of the Michigan Indian tribe
25 employing the tribal law enforcement officer pursuant to the Indian
26 self-determination and education assistance act, Public Law 93-638,
27 88 Stat. 2203.

1 (8) A law enforcement officer of a multicounty metropolitan
2 district, other than a law enforcement officer employed by a law
3 enforcement agency created under the public body law enforcement
4 agency act, is not empowered to exercise the authority of a peace
5 officer under the laws of this state and shall not be employed in a
6 position for which peace officer authority is granted under the
7 laws of this state unless all of the following requirements are
8 met:

9 (a) The law enforcement officer has met or exceeded minimum
10 standards for certification under this act.

11 (b) The law enforcement officer is deputized by the sheriff or
12 sheriffs of the county or counties in which the land of the
13 multicounty metropolitan district employing the law enforcement
14 officer is located and in which the law enforcement officer will
15 work, pursuant to section 70 of 1846 RS 14, MCL 51.70.

16 (c) The deputation or appointment of the law enforcement
17 officer is made pursuant to a written agreement that includes terms
18 the deputizing authority under subdivision (b) may require between
19 the state or local law enforcement agency and the governing board
20 of the multicounty metropolitan district employing the law
21 enforcement officer.

22 (d) The written agreement described in subdivision (c) is
23 filed with the commission.

24 (9) A public body that creates a law enforcement agency under
25 the public body law enforcement agency act and that employs 1 or
26 more law enforcement officers certified under this act shall be
27 considered to be a law enforcement agency for purposes of section

1 9d.

2 (10) The commission may establish an evaluation or testing
3 process, or both, for granting a waiver from the law enforcement
4 officer minimum standards regarding training requirements to a
5 person who has held a certificate under this act and who
6 discontinues employment as a law enforcement officer for a period
7 of time exceeding the time prescribed in subsection (2)(a) to (c)
8 or (6), as applicable.