

SENATE BILL No. 856

March 11, 2014, Introduced by Senators SCHUITMAKER and EMMONS 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 2013 PA 170 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 any 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
8 commission certified law enforcement officer and that the person is

1 authorized under this act to be employed as a law enforcement
2 officer.

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

7 (iii) A determination by the commission that a person satisfies
8 the requirements set forth in a recommendation of the commission to
9 and approved by the legislature on the feasibility of interstate
10 reciprocity of certification of everyone that was employed as a law
11 enforcement officer of another state within the previous 12 months,
12 and that state maintains standards substantially similar to law
13 enforcement officer minimum standards.

14 (iv) **A DETERMINATION BY THE COMMISSION THAT A PERSON WAS**
15 **EMPLOYED AS A LAW ENFORCEMENT OFFICER OF THE FEDERAL GOVERNMENT**
16 **WITHIN THE PREVIOUS 12 MONTHS AND THE FEDERAL GOVERNMENT MAINTAINS**
17 **STANDARDS SUBSTANTIALLY SIMILAR TO LAW ENFORCEMENT OFFICER MINIMUM**
18 **STANDARDS.**

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

21 (d) "Contested case" means that term as defined in section 3
22 of the administrative procedures act of 1969, 1969 PA 306, MCL
23 24.203.

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

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

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

2 (ii) Expressly designated a felony by statute.

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

5 (h) "Law enforcement officer minimum standards" means
6 standards established by the commission under this act that a
7 person must meet to be eligible for certification under section
8 9a(1).

9 (i) "Law enforcement officer of a Michigan Indian tribal
10 police force" means a regularly employed member of a police force
11 of a Michigan Indian tribe who was appointed under former 25 CFR
12 12.100 to 12.103.

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

15 (k) "Multicounty metropolitan district" means an entity
16 authorized and established by state law by 2 or more counties with
17 a combined population of not less than 3,000,000, for the purpose
18 of cooperative planning, promoting, acquiring, constructing,
19 owning, developing, maintaining, or operating parks.

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

22 (i) A regularly employed member of a law enforcement agency
23 authorized and established by law, including common law, who is
24 responsible for the prevention and detection of crime and the
25 enforcement of the general criminal laws of this state. Police
26 officer or law enforcement officer does not include a person
27 serving solely because he or she occupies any other office or

1 position.

2 (ii) A law enforcement officer of a Michigan Indian tribal
3 police force, subject to the limitations set forth in section 9(7).

4 (iii) The sergeant at arms or any assistant sergeant at arms of
5 either house of the legislature who is commissioned as a police
6 officer by that respective house of the legislature as provided by
7 the legislative sergeant at arms police powers act, 2001 PA 185,
8 MCL 4.381 to 4.382.

9 (iv) A law enforcement officer of a multicounty metropolitan
10 district, subject to the limitations of section 9(8).

11 (v) A county prosecuting attorney's investigator sworn and
12 fully empowered by the sheriff of that county.

13 (vi) A fire arson investigator from a fire department within a
14 village, city, township, or county who is sworn and fully empowered
15 by the chief of police of that village, city, township, or county.

16 (m) "Rule" means a rule promulgated under the administrative
17 procedures act of 1969, 1969 PA 306, MCL 24.201 to 24.328.

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

27 (a) Minimum standards of physical, educational, mental, and

1 moral fitness that govern the recruitment, selection, appointment,
2 and certification of law enforcement officers.

3 (b) Minimum courses of study, attendance requirements, and
4 instructional hours required at approved police training schools.

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

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

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

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

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

25 (d) The person has successfully completed the mandatory
26 training and has been continuously employed as a law enforcement
27 officer, but through no fault of that person the employing agency

1 failed to obtain certification for that person as required by this
2 act.

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

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

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

1 categories or classifications.

2 (b) The establishment of subordinate regional training centers
3 in strategic geographic locations in order to serve the greatest
4 number of police agencies that are unable to support their own
5 training programs.

6 (c) The commission's acceptance of certified basic police
7 training and law enforcement experience received by a person in
8 another state **OR THROUGH THE FEDERAL GOVERNMENT** in fulfillment in
9 whole or in part of the law enforcement officer minimum standards.

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

13 (e) The minimum qualifications for instructors at approved
14 police training schools.

15 (f) The minimum facilities and equipment required at approved
16 police training schools.

17 (g) The establishment of preservice basic training programs at
18 colleges and universities.

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

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

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

3 (5) Except as otherwise provided in this section, a regularly
4 employed person employed on or after January 1, 1977 as a member of
5 a police force having a full-time officer is not empowered to
6 exercise all the authority of a peace officer in this state, or be
7 employed in a position for which the authority of a peace officer
8 is conferred by statute, unless the person has received
9 certification under section 9a(1).

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

23 (7) A law enforcement officer of a Michigan Indian tribal
24 police force is not empowered to exercise the authority of a peace
25 officer under the laws of this state and shall not be employed in a
26 position for which peace officer authority is granted under the
27 laws of this state unless all of the following requirements are

1 met:

2 (a) The tribal law enforcement officer is certified under this
3 act.

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

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

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

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

19 (d) The written contract described in subdivision (c) is
20 incorporated into a self-determination contract, grant agreement,
21 or cooperative agreement between the United States secretary of the
22 interior and the tribal government of the Michigan Indian tribe
23 employing the tribal law enforcement officer ~~pursuant to~~ **UNDER** the
24 Indian self-determination and education assistance act, Public Law
25 93-638, ~~88 Stat. 2203~~ **25 USC 450 ET SEQ.**

26 (8) A law enforcement officer of a multicounty metropolitan
27 district, other than a law enforcement officer employed by a law

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

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

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

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

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

22 (9) A public body that creates a law enforcement agency under
23 the public body law enforcement agency act, **2004 PA 378, MCL 28.521**
24 **TO 28.590**, and that employs 1 or more law enforcement officers
25 certified under this act shall be considered to be a law
26 enforcement agency for purposes of section 9d.

27 (10) The commission may establish an evaluation or testing

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