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Senate Bill 94 (as introduced 2-10-15)
Sponsor: Senator Tonya Schuitmaker
Committee: Judiciary

Date Completed: 2-13-15

CONTENT

The bill would amend the Public Health Code to require a nonpublic record of a diversion and dismissal of a controlled substance violation maintained by the Michigan Department of State Police (MSP) to be open to the Michigan Commission on Law Enforcement Standards (MCOLES) for certain purposes.

Under Section 7411 of the Public Health Code, when an individual who has not previously been convicted of a drug-related offense pleads guilty to or is found guilty of certain controlled substance offenses, the court may defer further proceedings and place the person on probation. Upon fulfillment of the terms and conditions of probation, the court may discharge the person and dismiss the proceedings without adjudication of guilt.

Unless the court enters a judgment of guilt under Section 7411, the MSP must retain a nonpublic record of the arrest, court proceedings, and disposition of the criminal charge. The nonpublic record must be open, however, to certain entities for certain purposes. These include Michigan courts, law enforcement personnel, the Department of Corrections, and prosecuting attorneys for use in the performance of their duties or to determine whether an employee has violated conditions of employment or an applicant meets criteria for employment; Michigan courts, law enforcement personnel, and prosecuting attorneys for the purpose of showing that a defendant had already used the discharge and dismissal option; and the Department of Human Services, for enforcing child protection laws and vulnerable adult protection laws or for ascertaining the pre-employment criminal history of a person who will be engaged in the enforcement of those laws.

Under the bill, the nonpublic record also would have to be open to MCOLES as follows:

- The court placed the individual on probation after March 25, 2002.
- The Commission could use the record to determine whether the individual met the requirements for certification as a law enforcement officer, if the individual were seeking certification at the time of the request.
- The Commission could use the record to determine whether the certification could be revoked, if the individual were certified as a law enforcement officer.
- The Commission could use the record to determine whether the individual met the requirements for admission, if he or she were seeking admission to a law enforcement training academy.
- The Commission could use the record to determine whether the individual met the waiver requirements, if he or she were seeking a waiver from the law enforcement officer minimum standards regarding training requirements.

FISCAL IMPACT

The bill would have no fiscal impact on State or local government.

Fiscal Analyst: Bruce Baker

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This analysis was prepared by nonpartisan Senate staff for use by the Senate in its deliberations and does not constitute an official statement of legislative intent.