

# SENATE BILL No. 1022

June 8, 2016, Introduced by Senators JONES, BIEDA, NOFS and SCHUITMAKER and referred to the Committee on Judiciary.

A bill to amend 1965 PA 203, entitled  
"Commission on law enforcement standards act,"  
(MCL 28.601 to 28.616) by adding sections 9e and 9f.

**THE PEOPLE OF THE STATE OF MICHIGAN ENACT:**

1           SEC. 9E. (1) IN ADDITION TO THE EMPLOYMENT HISTORY RECORD  
2           REQUIRED TO BE MAINTAINED UNDER SECTION 9D BY A LAW ENFORCEMENT  
3           AGENCY FOR EACH OFFICER IT EMPLOYS, A LAW ENFORCEMENT AGENCY SHALL  
4           MAINTAIN A RECORD REGARDING THE REASON OR REASONS FOR, AND  
5           CIRCUMSTANCES SURROUNDING, A SEPARATION OF SERVICE FOR EACH LAW  
6           ENFORCEMENT OFFICER THE AGENCY EMPLOYS WHO SUBSEQUENTLY SEPARATES  
7           FROM THE LAW ENFORCEMENT AGENCY.

8           (2) THE LAW ENFORCEMENT AGENCY SHALL ALLOW A SEPARATING LAW

1 ENFORCEMENT OFFICER TO REVIEW A RECORD PREPARED UNDER SUBSECTION  
2 (1) UPON THE REQUEST OF THE SEPARATING OFFICER.

3 (3) IF A SEPARATING LAW ENFORCEMENT OFFICER DISAGREES WITH THE  
4 ACCURACY OF THE CONTENTS OF THE RECORD PREPARED UNDER SUBSECTION  
5 (1), HE OR SHE MAY REQUEST THE CORRECTION OR REMOVAL OF THE PORTION  
6 OF THE RECORD HE OR SHE BELIEVES IS INCORRECT. IF THE LAW  
7 ENFORCEMENT AGENCY AND THE SEPARATING LAW ENFORCEMENT OFFICER  
8 CANNOT REACH AN AGREEMENT ON THE CONTENTS OF THE RECORD PREPARED  
9 UNDER SUBSECTION (1), THE SEPARATING LAW ENFORCEMENT OFFICER MAY  
10 SUBMIT A WRITTEN STATEMENT EXPLAINING THE SEPARATING LAW  
11 ENFORCEMENT OFFICER'S POSITION AND THE BASIS FOR HIS OR HER  
12 DISAGREEMENT. IF A SEPARATING LAW ENFORCEMENT OFFICER SUBMITS A  
13 WRITTEN STATEMENT UNDER THIS SUBSECTION, IT SHALL BE KEPT WITH THE  
14 RECORD REQUIRED UNDER SUBSECTION (1) AND PROVIDED WITH THE REST OF  
15 THE CONTENTS OF THE RECORD AS REQUIRED UNDER SECTION 9F.

16 SEC. 9F. (1) A LAW ENFORCEMENT OFFICER WHO IS CERTIFIED UNDER  
17 THIS ACT AND WAS PREVIOUSLY EMPLOYED AS A LAW ENFORCEMENT OFFICER  
18 IN THIS STATE, WHO SEPARATES FROM HIS OR HER EMPLOYING LAW  
19 ENFORCEMENT AGENCY, AND WHO SUBSEQUENTLY SEEKS TO BECOME REEMPLOYED  
20 AS A LAW ENFORCEMENT OFFICER WITH A DIFFERENT LAW ENFORCEMENT  
21 AGENCY IN THIS STATE SHALL PROVIDE TO THE PROSPECTIVE EMPLOYING LAW  
22 ENFORCEMENT AGENCY, UPON OFFER OF EMPLOYMENT, A SIGNED WAIVER. A  
23 WAIVER EXECUTED UNDER THIS SUBSECTION SHALL EXPRESSLY ALLOW THE  
24 PROSPECTIVE EMPLOYING LAW ENFORCEMENT AGENCY TO CONTACT THE LAW  
25 ENFORCEMENT OFFICER'S FORMER EMPLOYING LAW ENFORCEMENT AGENCY AND  
26 SEEK A COPY OF THE RECORD REGARDING THE REASON OR REASONS FOR, AND  
27 CIRCUMSTANCES SURROUNDING, HIS OR HER SEPARATION OF SERVICE CREATED

1 BY HIS OR HER FORMER EMPLOYING LAW ENFORCEMENT AGENCY UNDER SECTION  
2 9E.

3 (2) A WAIVER UNDER SUBSECTION (1) SHALL BE EXECUTED ON A FORM  
4 PROVIDED BY THE COMMISSION TO ALL LAW ENFORCEMENT AGENCIES IN THIS  
5 STATE THAT EMPLOY LAW ENFORCEMENT OFFICERS CERTIFIED UNDER THIS  
6 ACT. THE PROSPECTIVE EMPLOYING LAW ENFORCEMENT AGENCY IS  
7 RESPONSIBLE FOR PROVIDING THE WAIVER EXECUTED UNDER SUBSECTION (1)  
8 TO THE FORMER EMPLOYING LAW ENFORCEMENT AGENCY.

9 (3) UPON RECEIPT OF THE WAIVER EXECUTED UNDER SUBSECTION (1),  
10 THE FORMER EMPLOYING LAW ENFORCEMENT AGENCY SHALL PROVIDE, ALONG  
11 WITH OTHER INFORMATION REQUIRED OR ALLOWED TO BE PROVIDED BY LAW, A  
12 COPY OF THE RECORD REQUIRED UNDER SECTION 9E TO THE PROSPECTIVE  
13 EMPLOYING LAW ENFORCEMENT AGENCY.

14 (4) A FORMER EMPLOYING LAW ENFORCEMENT AGENCY THAT DISCLOSES  
15 INFORMATION UNDER THIS SECTION IN GOOD FAITH AFTER RECEIPT OF A  
16 WAIVER EXECUTED UNDER SUBSECTION (1) IS IMMUNE FROM CIVIL LIABILITY  
17 FOR THE DISCLOSURE. A FORMER EMPLOYING LAW ENFORCEMENT AGENCY IS  
18 PRESUMED TO BE ACTING IN GOOD FAITH AT THE TIME OF A DISCLOSURE  
19 UNDER THIS SECTION UNLESS A PREPONDERANCE OF THE EVIDENCE  
20 ESTABLISHES 1 OR MORE OF THE FOLLOWING:

21 (A) THAT THE FORMER EMPLOYING LAW ENFORCEMENT AGENCY KNEW THE  
22 INFORMATION DISCLOSED WAS FALSE OR MISLEADING.

23 (B) THAT THE FORMER EMPLOYING LAW ENFORCEMENT AGENCY DISCLOSED  
24 THE INFORMATION WITH A RECKLESS DISREGARD FOR THE TRUTH.

25 (C) THAT THE DISCLOSURE WAS SPECIFICALLY PROHIBITED BY A STATE  
26 OR FEDERAL STATUTE.

27 Enacting section 1. This amendatory act takes effect 90 days

1 after the date it is enacted into law.