

Legislative Analysis



LAW ENFORCEMENT OFFICER SEPARATION OF SERVICE RECORDS

Phone: (517) 373-8080
<http://www.house.mi.gov/hfa>

House Bills 6572 and 6573 as reported from committee

Sponsor: Rep. Jim Runestad

Committee: Judiciary

Complete to 12-9-18

Analysis available at
<http://www.legislature.mi.gov>

(Enacted as Public Acts 521 and 522 of 2018)

SUMMARY:

House Bills 6572 and 6573 would amend two different acts to facilitate the required maintenance or release of law enforcement employment records.

Senate Bill 6573 would amend the Law Enforcement Officer Separation of Service Record Act, which was enacted during the current legislative session as Public Act 128 of 2017.¹ The act requires law enforcement agencies to maintain a record regarding the reason(s) for, and circumstance(s) surrounding, a separation of service for each law enforcement officer at their agency. A law enforcement officer who seeks subsequent employment at another law enforcement agency in this state must provide a signed waiver to the prospective agency that expressly allows the prospective agency to contact a former employing law enforcement agency and gain a copy of the record. The bill would add that the signed waiver would occur upon *receiving a conditional* offer of employment.

The bill also would add that both an agency maintaining, and a prospective employer that receives, a record described above would have to, upon written request from the Michigan Commission on Law Enforcement Standards (MCOLES), provide a copy of the requested record to MCOLES for the purpose of determining compliance with licensing and procedures under the MCOLES Act (Public Act 203 of 1965).

The bill would take effect 90 days after enactment.

MCL 28.565

Senate Bill 6572 would amend the Bullard-Plawecki Employee Right to Know Act (Public Act 397 of 1978) to add exceptions to current required personnel records reviews before information is released to a third party.

Currently, an employer is required to review a personnel record before releasing information to a third party and delete disciplinary reports, letters of reprimand, or other disciplinary action records that are more than four years old. There are two current

¹ See <http://legislature.mi.gov/doc.aspx?2017-SB-0223>.

exceptions to this requirement (if the release is ordered in a legal action or arbitration to a party in that legal action or arbitration), and the bill would add two more exceptions:

- The release is part of a record regarding the reason(s) for, and circumstance(s) surrounding, a separation of service under the Law Enforcement Officer Separation of Service Record Act.
- The release is requested by MCOLES, a law enforcement training academy, or a law enforcement agency for the purpose of determining compliance with licensing standards and procedures under the MCOLES Act.

The act also requires an employer that is a criminal justice agency to maintain a separate, confidential file of information relating to investigations of alleged criminal activity or violations of an agency rule by an employee.

The bill would add that the employer *may* release information from the separate file to a prospective employing law enforcement agency, but only if the information is part of a record regarding the reason(s) for, and circumstance(s) surrounding, a separation of service under the Law Enforcement Officer Separation of Service Record Act. The employer would be *required* to release the information to MCOLES upon the request of MCOLES.

The bill would take effect 90 days after enactment.

MCL 423.507

FISCAL IMPACT:

House Bills 6572 and 6573 would not have a fiscal impact on any unit of state or local government.

POSITIONS:

The Michigan Commission on Law Enforcement Standards indicated support for the bills. (12-5-18)

Legislative Analyst: Emily S. Smith
Fiscal Analyst: Marcus Coffin

■ This analysis was prepared by nonpartisan House Fiscal Agency staff for use by House members in their deliberations, and does not constitute an official statement of legislative intent.