Senate Fiscal Agency
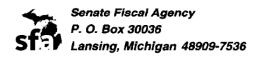P. O. Box 30036
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BILL ANALYSIS

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Senate Bill 524 (as enacted)
Sponsor: Senator Rick Jones
Senate Committee: Judiciary
House Committee: Judiciary

PUBLIC ACT 198 of 2017

Date Completed: 2-8-18

RATIONALE

The Michigan Commission on Law Enforcement Standards Act created the Michigan Commission on Law Enforcement Standards (MCOLES), and requires it to promulgate rules governing licensing standards and procedures for various law enforcement personnel. Previously, the Act did not require MCOLES to obtain the fingerprints of an individual who sought to enroll in a basic law enforcement training academy, for purposes of a criminal history check. Apparently, this resulted in individuals with criminal records being admitted into basic law enforcement training programs, where they are trained to handle firearms and taught police procedures. To address this issue, it was suggested that individuals who enter a police academy be required to submit fingerprints to the Michigan Department of State Police (MSP), and that the MSP be required to forward the fingerprints to the FBI, for criminal history checks.

CONTENT

The bill amended the Michigan Commission on Law Enforcement Standards Act to do the following:

-- **Require an individual who seeks admission to a law enforcement training academy or recognition for prior basic law enforcement training for licensure under the Act to submit his or her fingerprints to the Michigan Department of State Police (MSP) for a criminal history record information check.**
-- **Require the MSP to conduct a criminal history check on the individual described above through its records and through the Federal Bureau of Investigation (FBI).**
-- **Require the MSP to store and retain all fingerprints submitted in an automated fingerprint system.**
-- **Require the MSP to forward all fingerprints submitted to it to the FBI for submission into the FBI's next generation identification system and integrated automated fingerprint identification system.**
-- **Require the Michigan Commission on Law Enforcement Standards to promulgate rules pertaining to the ability of an individual to be licensed and employed as a law enforcement officer without a restriction otherwise imposed by law.**

The bill took effect on December 15, 2017.

Sections 9, 9b, 9c, and 9d of the Act govern the licensure of the following categories of law enforcement officers, respectively: law enforcement officers except individuals to whom Sections 9a (sheriffs) through 9d apply; Michigan tribal law enforcement officers authorized to enforce State law; fire arson investigators from fire departments within local units of government; and private college security officers. Under the bill, an individual who seeks admission to a preservice college basic law enforcement training academy or a regional basic law enforcement training academy, or

the recognition of a prior basic law enforcement training and experience program for purpose of licensure under Section 9, 9b, 9c, or 9d, must submit to fingerprinting, as provided below.

Under the bill, MCOLES must require an individual seeking admission to a preservice college basic law enforcement training academy or a regional basic law enforcement training academy or the recognition of a prior basic law enforcement training and experience program to submit his or her fingerprints to the MSP for a criminal history record information check. The individual must submit his or her fingerprints to the MSP in the manner it prescribes. The Department may charge a fee for conducting the criminal history check.

The MSP must conduct a criminal history check on an individual seeking admission to a law enforcement training academy or recognition of a prior training and experience program through its own records and through the FBI. After each criminal history check, the MSP must provide the criminal history record information to MCOLES.

The MSP must store and retain fingerprints submitted in an automated fingerprint system database that provides for an automatic notification if subsequent criminal history information matches fingerprints previously submitted. If the MSP receives a notification, it must forward it to MCOLES.

The MSP must forward all fingerprints submitted to it to the FBI for retention in the FBI's next generation identification system and integrated automated fingerprint identification system. If the MSP receives a notification from the FBI, it must forward it to MCOLES. The retained fingerprints may be searched by using future submissions to those systems, including latent fingerprint searches, with appropriate responses sent to the submitting and subscribing entities. This requirement does not apply unless the MSP is capable of participating in the FBI's next generation identification system and integrated automated fingerprint identification system.

In addition, Sections 9, 9b, 9c, and 9d require MCOLES to promulgate rules governing licensing standards and procedures pertaining to, among other things, training requirements, physical ability, psychological fitness, and education. Under the bill, MCOLES also must promulgate rules pertaining to the ability to be licensed and employed as a law enforcement officer, tribal law enforcement officer, fire arson investigator, or private college security officer without a restriction otherwise imposed by law.

MCL 28.609 et al.

ARGUMENTS

(Please note: The arguments contained in this analysis originate from sources outside the Senate Fiscal Agency. The Senate Fiscal Agency neither supports nor opposes legislation.)

Supporting Argument
There are various pathways to receiving law enforcement training and becoming a licensed law enforcement officer in the State of Michigan. If a candidate wishes to join the Michigan State Police, he or she must undergo a series of examinations and screenings, including Federal and State background checks, before entering the MSP Academy. A local law enforcement agency typically will sponsor a candidate for law enforcement training. In that case, the hiring agency will perform background checks before the individual enters a regional academy or training program. Once training is completed, MCOLES can request that the MSP conduct a State background check (through the Law Enforcement Information Network, a comprehensive system limited to criminal justice agencies) and Federal background checks on an individual before he or she receives a license from MCOLES. Anyone, however, can apply to enter a law enforcement training program or regional academy. For candidates who were not sponsored by a hiring agency or applying to the MSP, MCOLES previously had access only to the Internet Criminal History Access Tool (ICHAT) to screen them. According to the ICHAT website, many types of records, including Federal records, tribal records, and criminal histories from other states, as well as suppressed records and warrant information, are not included on ICHAT.

An individual admitted to a police academy or other law enforcement training program receives instruction on police procedures and the use of firearms, and other tools. Because MCOLES did not have the authority to conduct a Federal background check on an individual entering an academy or training program, it was possible that a violent offender from another state could be accepted into a police academy, receive training on firearms and police procedures, and then use that training to commit more violent crimes. Requiring the MSP to perform Federal and State background checks on an individual before he or she begins training (and report those results to MCOLES) will prevent someone with a criminal history from receiving training that could make him or her more dangerous.

Legislative Analyst: Jeff Mann

FISCAL IMPACT

The bill will have a minimal fiscal impact on State and local government. The bill requires preservice applicants to law enforcement training academies to submit their fingerprints to the Michigan Department of State Police for a criminal history check and requires the MSP to conduct a criminal records check through the FBI. The cost of each background check, which includes a search of State and Federal fingerprint databases, is $42 ($30 State fee, $12 Federal fee), and is borne by the preservice applicants and paid to the MSP. Under Michigan law, a law enforcement agency or vendor that takes fingerprint impressions from an individual for submission to the MSP may charge a nominal fee for doing so (often $15 or less, if anything). In addition, the law states that the fee for fingerprint processing may not exceed the actual and reasonable cost incurred by the MSP for doing so.

The bill also requires the MSP to report the results of the background checks to MCOLES, retain those records, and report to the Commission if notified by the FBI that a subsequent criminal history is generated from a set of prints. These requirements can be met with existing MSP resources.

Fiscal Analyst: Ryan Bergan