

HOUSE BILL NO. 5312

September 21, 2021, Introduced by Reps. Maddock, Slagh, Paquette, Steven Johnson, Lightner, Hornberger, Fink, Markkanen, Rendon, Reilly, Carra, Beeler, Meerman, Borton and Bollin and referred to the Committee on Military, Veterans and Homeland Security.

A bill to amend 1927 PA 372, entitled

"An act to regulate and license the selling, purchasing, possessing, and carrying of certain firearms, gas ejecting devices, and electro-muscular disruption devices; to prohibit the buying, selling, or carrying of certain firearms, gas ejecting devices, and electro-muscular disruption devices without a license or other authorization; to provide for the forfeiture of firearms and electro-muscular disruption devices under certain circumstances; to provide for penalties and remedies; to provide immunity from civil liability under certain circumstances; to prescribe the powers and duties of certain state and local agencies; to prohibit certain conduct against individuals who apply for or receive a license to carry a concealed pistol; to make appropriations; to prescribe

certain conditions for the appropriations; and to repeal all acts and parts of acts inconsistent with this act,"

by amending sections 1, 2, 2b, 6, 12, and 14a (MCL 28.421, 28.422, 28.422b, 28.426, 28.432, and 28.434a), sections 1 and 6 as amended by 2017 PA 95, section 2 as amended by 2015 PA 200, section 2b as amended by 2014 PA 205, section 12 as amended by 2010 PA 209, and section 14a as added by 2010 PA 295, and by adding section 2c; and to repeal acts and parts of acts.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

Sec. 1. (1) As used in this act:

(a) "Corrections officer of the department of corrections" means a state correctional officer as that term is defined in section 2 of the correctional officers' training act of 1982, 1982 PA 415, MCL 791.502.

(b) "Felony" means, except as otherwise provided in this subdivision, that term as defined in section 1 of chapter I of the code of criminal procedure, 1927 PA 175, MCL 761.1, or a violation of a law of the United States or another state that is designated as a felony or that is punishable by death or by imprisonment for more than 1 year. Felony does not include a violation of a penal law of this state that is expressly designated as a misdemeanor.

(c) "Firearm" means any weapon which will, is designed to, or may readily be converted to expel a projectile by action of an explosive.

(d) "Firearms records" means any form, information, or record required for submission to a government agency under sections ~~27~~ ~~2a~~, ~~2b~~ ~~7~~ and 5b, or any form, permit, or license issued by a government agency under this act.

(e) "Local corrections officer" means that term as defined in

1 section 2 of the local corrections officers training act, 2003 PA
2 125, MCL 791.532.

3 (f) "Misdemeanor" means a violation of a penal law of this
4 state or violation of a local ordinance substantially corresponding
5 to a violation of a penal law of this state that is not a felony or
6 a violation of an order, rule, or regulation of a state agency that
7 is punishable by imprisonment or a fine that is not a civil fine,
8 or both.

9 (g) "Parole or probation officer of the department of
10 corrections" means any individual employed by the department of
11 corrections to supervise felony probationers or parolees or that
12 individual's immediate supervisor.

13 (h) "Peace officer" means, except as otherwise provided in
14 this act, an individual who is employed as a law enforcement
15 officer, as that term is defined under section 2 of the Michigan
16 commission on law enforcement standards act, 1965 PA 203, MCL
17 28.602, by this state or another state, a political subdivision of
18 this state or another state, or the United States, and who is
19 required to carry a firearm in the course of his or her duties as a
20 law enforcement officer.

21 (i) "Pistol" means a loaded or unloaded firearm that is 26
22 inches or less in length, or a loaded or unloaded firearm that by
23 its construction and appearance conceals it as a firearm.

24 (j) "Purchaser" means a person who receives a pistol from
25 another person by purchase or gift.

26 (k) "Reserve peace officer", "auxiliary officer", or "reserve
27 officer" means, except as otherwise provided in this act, an
28 individual authorized on a voluntary or irregular basis by a duly
29 authorized police agency of this state or a political subdivision

1 of this state to act as a law enforcement officer, who is
2 responsible for the preservation of the peace, the prevention and
3 detection of crime, and the enforcement of the general criminal
4 laws of this state, and who is otherwise eligible to possess a
5 firearm under this act.

6 (l) "Retired corrections officer of the department of
7 corrections" means an individual who was a corrections officer of
8 the department of corrections and who retired in good standing from
9 his or her employment as a corrections officer of the department of
10 corrections.

11 (m) "Retired federal law enforcement officer" means an
12 individual who was an officer or agent employed by a law
13 enforcement agency of the United States government whose primary
14 responsibility was enforcing laws of the United States, who was
15 required to carry a firearm in the course of his or her duties as a
16 law enforcement officer, and who retired in good standing from his
17 or her employment as a federal law enforcement officer.

18 (n) "Retired parole or probation officer of the department of
19 corrections" means an individual who was a parole or probation
20 officer of the department of corrections and who retired in good
21 standing from his or her employment as a parole or probation
22 officer of the department of corrections.

23 (o) "Retired police officer" or "retired law enforcement
24 officer" means an individual who was a police officer or law
25 enforcement officer who was licensed or certified as described in
26 the Michigan commission on law enforcement standards act, 1965 PA
27 203, MCL 28.601 to 28.615, and retired in good standing from his or
28 her employment as a police officer or law enforcement officer. A
29 police officer or law enforcement officer retired in good standing

1 if he or she receives a pension or other retirement benefit for his
2 or her service as a police officer or law enforcement officer or
3 actively maintained a Michigan commission on law enforcement
4 standards or equivalent state certification or license from this
5 state or another state for not less than 10 consecutive years.

6 (p) "Seller" means a person who sells or gives a pistol to
7 another person.

8 (q) "State court judge" means a judge of the district court,
9 circuit court, probate court, or court of appeals or justice of the
10 supreme court of this state who is serving either by election or
11 appointment.

12 (r) "State court retired judge" means a judge or justice
13 described in subdivision (q) who is retired, or a retired judge of
14 the recorders court.

15 (2) A person may lawfully own, possess, carry, or transport as
16 a pistol a firearm greater than 26 inches in length if ~~all~~**both** of
17 the following conditions apply:

18 (a) The person registered the firearm as a pistol under
19 section 2 or **former section** 2a before January 1, 2013.

20 ~~(b) The person who registered the firearm as described in~~
21 ~~subdivision (a) has maintained registration of the firearm since~~
22 ~~January 1, 2013 without lapse.~~

23 ~~(b) (e)~~The person possesses a copy of the license or record
24 issued to him or her under section 2 or **former section** 2a.

25 (3) A person who satisfies ~~all~~**both** of the conditions listed
26 under subsection (2) nevertheless may elect to have the firearm not
27 be considered to be a pistol. A person who makes the election under
28 this subsection shall notify the department of state police of the
29 election in a manner prescribed by that department.

1 Sec. 2. (1) ~~Except as otherwise provided in this act, a person~~
2 ~~shall not purchase, carry, possess, or transport a pistol in this~~
3 ~~state without first having obtained a license for the pistol as~~
4 ~~prescribed in this section.~~

5 ~~(2) A person who brings a pistol into this state who is on~~
6 ~~leave from active duty with the armed forces of the United States~~
7 ~~or who has been discharged from active duty with the armed forces~~
8 ~~of the United States shall obtain a license for the pistol within~~
9 ~~30 days after his or her arrival in this state.~~

10 ~~(3) The commissioner or chief of police of a city, township,~~
11 ~~or village police department that issues licenses to purchase,~~
12 ~~carry, possess, or transport pistols, or his or her duly authorized~~
13 ~~deputy, or the sheriff or his or her duly authorized deputy, in the~~
14 ~~parts of a county not included within a city, township, or village~~
15 ~~having an organized police department, in discharging the duty to~~
16 ~~issue licenses shall with due speed and diligence issue licenses to~~
17 ~~purchase, carry, possess, or transport pistols to qualified~~
18 ~~applicants unless he or she has probable cause to believe that the~~
19 ~~applicant would be a threat to himself or herself or to other~~
20 ~~individuals, or would commit an offense with the pistol that would~~
21 ~~violate a law of this or another state or of the United States. An~~
22 ~~applicant is qualified if all of the following circumstances~~
23 ~~exist:~~ **Except as otherwise provided in this act, an individual shall**
24 **not possess a pistol in this state unless all of the following**
25 **exist:**

26 (a) The ~~person~~ **individual** is not subject to an order or
27 disposition for which he or she has received notice and an
28 opportunity for a hearing, and which was entered into the law
29 enforcement information network under any of the following:

1 (i) Section 464a of the mental health code, 1974 PA 258, MCL
2 330.1464a.

3 (ii) Section 5107 of the estates and protected individuals
4 code, 1998 PA 386, MCL 700.5107, or section 444a of former 1978 PA
5 642.

6 (iii) Section 2950 of the revised judicature act of 1961, 1961
7 PA 236, MCL 600.2950.

8 (iv) Section 2950a of the revised judicature act of 1961, 1961
9 PA 236, MCL 600.2950a.

10 (v) Section 14 of 1846 RS 84, MCL 552.14.

11 (vi) Section 6b of chapter V of the code of criminal procedure,
12 1927 PA 175, MCL 765.6b, if the order has a condition imposed under
13 section 6b(3) of chapter V of the code of criminal procedure, 1927
14 PA 175, MCL 765.6b.

15 (vii) Section 16b of chapter IX of the code of criminal
16 procedure, 1927 PA 175, MCL 769.16b.

17 (b) The ~~person-individual~~ is 18 years of age or older. ~~or, if~~
18 ~~the seller is licensed under 18 USC 923, is 21 years of age or~~
19 ~~older.~~

20 (c) The ~~person-individual~~ is a citizen of the United States or
21 an alien lawfully admitted into the United States and is ~~a legal~~
22 ~~resident of this state. For the purposes of this section, a person~~
23 ~~is considered a legal resident of this state if any of the~~
24 ~~following apply:~~ **not prohibited from possessing a firearm under 18**
25 **USC 922(g) (5) .**

26 ~~(i) The person has a valid, lawfully obtained Michigan driver~~
27 ~~license issued under the Michigan vehicle code, 1949 PA 300, MCL~~
28 ~~257.1 to 257.923, or an official state personal identification card~~
29 ~~issued under 1972 PA 222, MCL 28.291 to 28.300.~~

~~(ii) The person is lawfully registered to vote in this state.~~

~~(iii) The person is on active duty status with the United States armed forces and is stationed outside of this state, but the person's home of record is in this state.~~

~~(iv) The person is on active duty status with the United States armed forces and is permanently stationed in this state, but the person's home of record is in another state.~~

(d) A felony charge ~~or a criminal charge listed in section 5b~~ against the ~~person~~ **individual** is not pending at the time of application. **acquisition of the pistol.**

(e) The ~~person~~ **individual** is not prohibited from possessing, using, transporting, selling, purchasing, carrying, shipping, receiving, or distributing a firearm under section 224f of the Michigan penal code, 1931 PA 328, MCL 750.224f.

(f) The ~~person~~ **individual** has not been adjudged insane in this state or elsewhere unless he or she has been adjudged restored to sanity by court order.

(g) The ~~person~~ **individual** is not under an order of involuntary commitment in an inpatient or outpatient setting due to mental illness.

(h) The ~~person~~ **individual** has not been adjudged legally incapacitated in this state or elsewhere. This subdivision does not apply to ~~a person~~ **an individual** who has had his or her legal capacity restored by order of the court.

~~(4) Applications for licenses under this section shall be signed by the applicant under oath upon forms provided by the director of the department of state police. Licenses to purchase, carry, possess, or transport pistols shall be executed in triplicate upon forms provided by the director of the department of~~

1 ~~state police and shall be signed by the licensing authority. Three~~
2 ~~copies of the license shall be delivered to the applicant by the~~
3 ~~licensing authority. A license is void unless used within 30 days~~
4 ~~after the date it is issued.~~

5 ~~(5) If an individual purchases or otherwise acquires a pistol,~~
6 ~~the seller shall fill out the license forms describing the pistol,~~
7 ~~together with the date of sale or acquisition, and sign his or her~~
8 ~~name in ink indicating that the pistol was sold to or otherwise~~
9 ~~acquired by the purchaser. The purchaser shall also sign his or her~~
10 ~~name in ink indicating the purchase or other acquisition of the~~
11 ~~pistol from the seller. The seller may retain a copy of the license~~
12 ~~as a record of the transaction. The purchaser shall receive 2~~
13 ~~copies of the license. The purchaser shall return 1 copy of the~~
14 ~~license to the licensing authority within 10 days after the date~~
15 ~~the pistol is purchased or acquired. The return of the copy to the~~
16 ~~licensing authority may be made in person or may be made by first-~~
17 ~~class mail or certified mail sent within the 10 day period to the~~
18 ~~proper address of the licensing authority. A purchaser who fails to~~
19 ~~comply with the requirements of this subsection is responsible for~~
20 ~~a state civil infraction and may be fined not more than \$250.00. If~~
21 ~~a purchaser is found responsible for a state civil infraction under~~
22 ~~this subsection, the court shall notify the department of state~~
23 ~~police of that determination.~~

24 ~~(6) Within 10 days after receiving the license copy returned~~
25 ~~under subsection (5), the licensing authority shall electronically~~
26 ~~enter the information into the pistol entry database as required by~~
27 ~~the department of state police if it has the ability to~~
28 ~~electronically enter that information. If the licensing authority~~
29 ~~does not have that ability, the licensing authority shall provide~~

~~that information to the department of state police in a manner otherwise required by the department of state police. Any licensing authority that provided pistol descriptions to the department of state police under former section 9 of this act shall continue to provide pistol descriptions to the department of state police under this subsection. Within 48 hours after entering or otherwise providing the information on the license copy returned under subsection (5) to the department of state police, the licensing authority shall forward the copy of the license to the department of state police. The purchaser has the right to obtain a copy of the information placed in the pistol entry database under this subsection to verify the accuracy of that information. The licensing authority may charge a fee not to exceed \$1.00 for the cost of providing the copy. The licensee may carry, use, possess, and transport the pistol for 30 days beginning on the date of purchase or acquisition only while he or she is in possession of his or her copy of the license. However, the person is not required to have the license in his or her possession while carrying, using, possessing, or transporting the pistol after this period.~~

~~(2) (7) This section does not apply to the purchase of pistols from wholesalers by dealers regularly engaged in the business of selling pistols at retail, or to the sale, barter, or exchange of pistols kept as relics or curios not made for modern ammunition or permanently deactivated.~~

~~(8) This section does not prevent the transfer of ownership of pistols to an heir or devisee, whether by testamentary bequest or by the laws of intestacy regardless of whether the pistol is registered with this state. An individual who has inherited a pistol shall obtain a license as required in this section within 30~~

1 ~~days of taking physical possession of the pistol. The license may~~
2 ~~be signed by a next of kin of the decedent or the person authorized~~
3 ~~to dispose of property under the estates and protected individuals~~
4 ~~code, 1998 PA 386, MCL 700.1101 to 700.8206, including when the~~
5 ~~next of kin is the individual inheriting the pistol. If the heir or~~
6 ~~devisee is not qualified for a license under this section, the heir~~
7 ~~or devisee may direct the next of kin or person authorized to~~
8 ~~dispose of property under the estates and protected individuals~~
9 ~~code, 1998 PA 386, MCL 700.1101 to 700.8206, to dispose of the~~
10 ~~pistol in any manner that is lawful and the heir or devisee~~
11 ~~considers appropriate. The person authorized to dispose of property~~
12 ~~under the estates and protected individuals code, 1998 PA 386, MCL~~
13 ~~700.1101 to 700.8206, is not required to obtain a license under~~
14 ~~this section if he or she takes temporary lawful possession of the~~
15 ~~pistol in the process of disposing of the pistol pursuant to the~~
16 ~~decedent's testamentary bequest or the laws of intestacy. A law~~
17 ~~enforcement agency may not seize or confiscate a pistol being~~
18 ~~transferred by testamentary bequest or the laws of intestacy unless~~
19 ~~the heir or devisee does not qualify for obtaining a license under~~
20 ~~this section and the next of kin or person authorized to dispose of~~
21 ~~property under the estates and protected individuals code, 1998 PA~~
22 ~~386, MCL 700.1101 to 700.8206, is unable to retain his or her~~
23 ~~temporary possession of the pistol or find alternative lawful~~
24 ~~storage. If a law enforcement agency seizes or confiscates a pistol~~
25 ~~under this subsection, the heir or devisee who is not qualified to~~
26 ~~obtain a license under this section retains ownership interest in~~
27 ~~the pistol and, within 30 days of being notified of the seizure or~~
28 ~~confiscation, may file with a court of competent jurisdiction to~~
29 ~~direct the law enforcement agency to lawfully transfer or otherwise~~

1 ~~dispose of the pistol. A pistol seized under this subsection shall~~
2 ~~not be destroyed, sold, or used while in possession of the seizing~~
3 ~~entity or its agents until 30 days have passed since the heir or~~
4 ~~devisee has been notified of the seizure and no legal action~~
5 ~~regarding the lawful possession or ownership of the seized pistol~~
6 ~~has been filed in any court and is pending. As used in this~~
7 ~~subsection:~~

8 ~~(a) "Devisee" means that term as defined in section 1103 of~~
9 ~~the estates and protected individuals code, 1998 PA 386, MCL~~
10 ~~700.1103.~~

11 ~~(b) "Heir" means that term as defined in section 1104 of the~~
12 ~~estates and protected individuals code, 1998 PA 386, MCL 700.1104.~~

13 ~~(9) An individual who is not a resident of this state is not~~
14 ~~required to obtain a license under this section if all of the~~
15 ~~following conditions apply:~~

16 ~~(a) The individual is licensed in his or her state of~~
17 ~~residence to purchase, carry, or transport a pistol.~~

18 ~~(b) The individual is in possession of the license described~~
19 ~~in subdivision (a).~~

20 ~~(c) The individual is the owner of the pistol he or she~~
21 ~~possesses, carries, or transports.~~

22 ~~(d) The individual possesses the pistol for a lawful purpose.~~

23 ~~(e) The individual is in this state for a period of 180 days~~
24 ~~or less and does not intend to establish residency in this state.~~

25 ~~(10) An individual who is a nonresident of this state shall~~
26 ~~present the license described in subsection (9) (a) upon the demand~~
27 ~~of a police officer. An individual who violates this subsection is~~
28 ~~guilty of a misdemeanor punishable by imprisonment for not more~~
29 ~~than 90 days or a fine of not more than \$100.00, or both.~~

~~(11) The licensing authority may require a person claiming active duty status with the United States armed forces to provide proof of 1 or both of the following:~~

~~(a) The person's home of record.~~

~~(b) Permanent active duty assignment in this state.~~

(3) ~~(12)~~ This section does not apply to a ~~person~~ **an individual** who is younger than the age required under subsection ~~(3)(b)~~ **(1)(b)** and who possesses a pistol if all of the following conditions apply:

(a) The ~~person~~ **individual** is not otherwise prohibited from possessing that pistol.

(b) The ~~person~~ **individual** is at a recognized target range.

(c) The ~~person~~ **individual** possesses the pistol for the purpose of target practice or instruction in the safe use of a pistol.

(d) The ~~person~~ **individual** is in the physical presence and under the direct supervision of any of the following:

(i) The ~~person's~~ **individual's** parent.

(ii) The ~~person's~~ **individual's** guardian.

(iii) An individual who is 21 years of age or older, who is authorized by the ~~person's~~ **individual's** parent or guardian, and who has successfully completed a pistol safety training course or class that meets the requirements of section 5j(1)(a), (b), or (d), and received a certificate of completion.

(e) The owner of the pistol is physically present.

~~(13) This section does not apply to a person who possesses a pistol if all of the following conditions apply:~~

~~(a) The person is not otherwise prohibited from possessing a pistol.~~

~~(b) The person is at a recognized target range or shooting~~

1 facility.

2 ~~(c) The person possesses the pistol for the purpose of target~~
3 ~~practice or instruction in the safe use of a pistol.~~

4 ~~(d) The owner of the pistol is physically present and~~
5 ~~supervising the use of the pistol.~~

6 ~~(14) A person who forges any matter on an application for a~~
7 ~~license under this section is guilty of a felony, punishable by~~
8 ~~imprisonment for not more than 4 years or a fine of not more than~~
9 ~~\$2,000.00, or both.~~

10 ~~(15) A licensing authority shall implement this section during~~
11 ~~all of the licensing authority's normal business hours and shall~~
12 ~~set hours for implementation that allow an applicant to use the~~
13 ~~license within the time period set forth in subsection (4).~~

14 Sec. 2b. (1) Except as provided in subsection (5), upon entry
15 of an order or disposition into the law enforcement information
16 network under any provision of law described in section ~~2(3)(a),~~
17 **2(1)(a)**, the department of state police ~~shall~~**must** immediately send
18 written notice of that entry to the ~~person~~**individual** who is the
19 subject of the order or disposition. The notice ~~shall~~**must** be sent
20 by first-class mail to the last known address of the ~~person.~~
21 **individual**. The notice ~~shall~~**must** include at least all of the
22 following:

23 (a) The name of the ~~person~~**individual**.

24 (b) The date the order or disposition was entered into the law
25 enforcement information network.

26 (c) A statement that the ~~person~~**individual** cannot obtain a
27 ~~license to purchase a pistol or obtain a concealed weapon license~~
28 ~~until the order or disposition is removed from the law enforcement~~
29 ~~information network.~~

1 (d) A statement that the ~~person~~**individual** may request that
2 the state police correct or expunge inaccurate information entered
3 into the law enforcement information network.

4 (2) ~~A person~~**An individual** who is the subject of an order
5 entered into the law enforcement information network under any
6 provision of law described in section ~~2(3)(a)~~**2(1)(a)** may request
7 that the department of state police do either of the following:

8 (a) Amend an inaccuracy in the information entered into the
9 law enforcement information network under any provision of law
10 described in section ~~2(3)(a)~~**2(1)(a)**.

11 (b) Expunge the ~~person's~~**individual's** name and other
12 information concerning the ~~person~~**individual** from the law
13 enforcement information network regarding 1 or more specific
14 entries in the law enforcement information network under any
15 provision of law described in section ~~2(3)(a)~~**2(1)(a)** because 1 or
16 more of the following circumstances exist:

17 (i) The ~~person~~**individual** is not subject to an order of
18 involuntary commitment in an inpatient or outpatient setting due to
19 mental illness.

20 (ii) The ~~person~~**individual** is not subject to an order or
21 disposition determining that the ~~person~~**individual** is legally
22 incapacitated.

23 (iii) The ~~person~~**individual** is not subject to a personal
24 protection order issued under any of the following:

25 (A) Section 2950 of the revised judicature act of 1961, 1961
26 PA 236, MCL 600.2950.

27 (B) Section 2950a of the revised judicature act of 1961, 1961
28 PA 236, MCL 600.2950a.

29 (C) Section 14 of 1846 RS 84, MCL 552.14.

1 (iv) The ~~person~~**individual** is not subject to an order for
2 release subject to protective conditions that prohibits the
3 purchase or possession of a firearm by the person issued under
4 section 6b of chapter V of the code of criminal procedure, 1927 PA
5 175, MCL 765.6b.

6 (3) Before the expiration of 30 days after a request is made
7 to amend an inaccuracy in the law enforcement information network
8 under subsection (2)(a) or to expunge 1 or more specific entries
9 from the law enforcement information network under subsection
10 (2)(b)(i) to (iv), the department of state police shall conduct an
11 investigation concerning the accuracy of the information contained
12 in the law enforcement information network, either grant or deny
13 the request and provide the ~~person~~**individual** with written notice
14 of that grant or denial. A notice of denial ~~shall~~**must** include a
15 statement specifying the basis of the denial, and that ~~a person~~**an**
16 **individual** may appeal the denial pursuant to the administrative
17 procedures act of 1969, 1969 PA 306, MCL 24.201 to 24.328.

18 (4) If the department of state police refuses a request by a
19 ~~person~~**an individual** for amendment or expunction under subsection
20 (2), or fails to act within 30 days after receiving the request
21 under subsection (2), the ~~person~~**individual** may request a hearing
22 before a hearing officer appointed by the department of state
23 police for a determination of whether information entered into the
24 law enforcement information network should be amended or expunged
25 because it is inaccurate or false. The department of state police
26 shall conduct the hearing pursuant to the administrative procedures
27 act of 1969, 1969 PA 306, MCL 24.201 to 24.328.

28 (5) The department of state police shall not send written
29 notice of an entry of an order or disposition into the law

1 enforcement information network as required for a personal
2 protection order issued under section 2950 or 2950a of the revised
3 judicature act of 1961, 1961 PA 236, MCL 600.2950 and 600.2950a,
4 until that department has received notice that the respondent of
5 the order has been served with or has received notice of the
6 personal protection order.

7 **Sec. 2c. (1) The director of the department of state police,**
8 **the sheriff of each county, and the commissioner or chief of police**
9 **of each city, village, and township police department shall destroy**
10 **all records held by or under the control of that police department**
11 **or sheriff's department that were received, compiled, or retained**
12 **under section 2 or 2a, or under former section 9 or 11, including**
13 **all copies of those records. Except as provided in subsection (2),**
14 **the destruction of those records must be completed within 6 months**
15 **after the effective date of the amendatory act that added this**
16 **section.**

17 (2) Subsection (1) does not apply to a record or copy of a
18 record that is being held as evidence in a criminal prosecution or
19 civil proceeding that has been initiated and is pending on the
20 effective date of the amendatory act that added this section.
21 However, if a record or copy of a record is held as evidence, the
22 record or copy of a record must be destroyed within 30 days after
23 the record is no longer being held as evidence in that criminal
24 prosecution or civil proceeding.

25 (3) Each department shall provide a report of its compliance
26 with this section to the secretary of the senate and the clerk of
27 the house of representatives within 30 days after the 6-month
28 period described in subsection (1) has expired. The report required
29 under this section must separately identify the number of records

1 and copies of records retained as evidence under subsection (2).
2 Each department shall also provide a report to the secretary of the
3 senate and the clerk of the house of representatives by January 1
4 of each year of the number of records and copies of records
5 retained by or destroyed by that department under subsection (2)
6 during that year until all of those records and copies of records
7 are destroyed in compliance with this section.

8 Sec. 6. ~~(1) An issuing agency shall not issue a license to an~~
9 ~~applicant under section 2 unless both of the following apply:~~

10 ~~(a) The issuing agency has determined through the federal~~
11 ~~national instant criminal background check system that the~~
12 ~~applicant is not prohibited under federal law from possessing or~~
13 ~~transporting a firearm.~~

14 ~~(b) If the applicant is not a United States citizen, the~~
15 ~~issuing agency has verified through the United States Immigration~~
16 ~~and Customs Enforcement databases that the applicant is not an~~
17 ~~illegal alien or a nonimmigrant alien.~~

18 ~~(2) A county clerk shall not issue a license to an applicant~~
19 ~~under section 5b unless both of the following apply:~~

20 (a) The department of state police, or the county sheriff
21 under section 5a(4), has determined through the federal national
22 instant criminal background check system that the applicant is not
23 prohibited under federal law from possessing or transporting a
24 firearm.

25 (b) If the applicant is not a United States citizen, the
26 department of state police has verified through the United States
27 Immigration and Customs Enforcement databases that the applicant is
28 not an illegal alien or a nonimmigrant alien.

29 Sec. 12. (1) Section 2 does not apply to any of the following:

(a) A police or correctional agency of the United States or of this state or any subdivision of this state.

(b) The United States ~~army, air force, navy, or marine corps.~~
Army, Air Force, Navy, or Marine Corps.

(c) An organization authorized by law to purchase or receive weapons from the United States or from this state.

(d) The national guard, armed forces reserves, or other duly authorized military organization.

(e) A member of an entity or organization described in subdivisions (a) through (d) for a pistol while engaged in the course of his or her duties with that entity or while going to or returning from those duties.

(f) A United States citizen holding a license to carry a pistol concealed upon his or her person issued by another state.

(g) The regular and ordinary possession ~~and transportation~~ of a pistol as merchandise by an authorized agent of a person licensed to manufacture firearms or a licensed dealer.

(h) ~~Purchasing, owning, carrying, possessing, using, or transporting~~ **Possessing** an antique firearm. As used in this subdivision, "antique firearm" means that term as defined in section 231a of the Michigan penal code, 1931 PA 328, MCL 750.231a.

(i) An individual ~~carrying, possessing, using, or transporting~~ a pistol belonging to another individual, if the other individual's possession of the pistol is authorized by law and the individual ~~carrying, possessing, using, or transporting~~ the pistol has obtained a license under section 5b to carry a concealed pistol or is exempt from licensure as provided in section 12a.

(2) The amendatory act that added subsection (1)(h) shall be known and may be cited as the "Janet Kukuk act".

1 Sec. 14a. (1) A law enforcement agency that seizes or
2 otherwise comes into possession of a firearm or a part of a firearm
3 subject to disposal under section 14 may, instead of forwarding the
4 firearm or part of a firearm to the director of the department of
5 state police or his or her designated representative for disposal
6 under that section, retain that firearm or part of a firearm for
7 the following purposes:

8 (a) For legal sale or trade to a federally licensed firearm
9 dealer. The proceeds from any sale or trade under this subdivision
10 ~~shall~~**must** be used by the law enforcement agency only for law
11 enforcement purposes. The law enforcement agency shall not sell or
12 trade a firearm or part of a firearm under this subdivision to any
13 individual who is a member of that law enforcement agency unless
14 the individual is a federally licensed firearms dealer and the sale
15 is made pursuant to a public auction.

16 (b) For official use by members of the seizing law enforcement
17 agency who are employed as peace officers. A firearm or part of a
18 firearm ~~shall~~**must** not be sold under this subdivision.

19 ~~(2) A law enforcement agency that sells or trades any pistol~~
20 ~~to a licensed dealer under subsection (1)(a) or retains any pistol~~
21 ~~under subsection (1)(b) shall complete a record of the transaction~~
22 ~~under section 2 or section 2a, as applicable.~~

23 ~~(3) A law enforcement agency that sells or trades a firearm or~~
24 ~~part of a firearm under this section shall retain a receipt of the~~
25 ~~sale or trade for a period of not less than 7 years. The law~~
26 ~~enforcement agency shall make all receipts retained under this~~
27 ~~subsection available for inspection by the department of state~~
28 ~~police upon demand and for auditing purposes by the state and the~~
29 ~~local unit of government of which the agency is a part.~~

1 (2) ~~(4)~~ Before disposing of a firearm under this section, the
2 law enforcement agency shall do both of the following:

3 (a) Determine through the law enforcement information network
4 whether the firearm has been reported lost or stolen. If the
5 firearm has been reported lost or stolen and the name and address
6 of the owner can be determined, the law enforcement agency shall
7 provide 30 days' written notice of its intent to dispose of the
8 firearm under this section to the owner, and allow the owner to
9 claim the firearm within that 30-day period if he or she is
10 authorized to possess the firearm. If the police agency determines
11 that a serial number has been altered or has been removed or
12 obliterated from the firearm, the police agency shall submit the
13 firearm to the department of state police or a forensic laboratory
14 for serial number verification or restoration to determine legal
15 ownership.

16 (b) Provide 30 days' notice to the public on a website
17 maintained by the law enforcement agency of its intent to dispose
18 of the firearm under this section. The notice ~~shall~~**must** include a
19 description of the firearm and ~~shall~~**must** state the firearm's
20 serial number, if the serial number can be determined. The law
21 enforcement agency shall allow the owner of the firearm to claim
22 the firearm within that 30-day period if he or she is authorized to
23 possess the firearm. The 30-day period required under this
24 subdivision is in addition to the 30-day period required under
25 subdivision (a).

26 (3) ~~(5)~~ The law enforcement agency is immune from civil
27 liability for disposing of a firearm in compliance with this
28 section.

29 (4) ~~(6)~~ As used in this section, "law enforcement agency"

1 means any agency that employs peace officers.

2 Enacting section 1. Section 2a of 1927 PA 372, MCL 28.422a, is

3 repealed.