Chapter 28

MICHIGAN STATE POLICE

MICHIGAN STATE POLICE

Act 59 of 1935

AN ACT to provide for the public safety; to create the Michigan state police, and provide for the organization thereof; to transfer thereto the offices, duties and powers of the state fire marshal, the state oil inspector, the department of the Michigan state police as heretofore organized, and the department of public safety; to create the office of commissioner of the Michigan state police; to provide for an acting commissioner and for the appointment of the officers and members of said department; to prescribe their powers, duties, and immunities; to provide the manner of fixing their compensation; to provide for their removal from office; and to repeal Act No. 26 of the Public Acts of 1919, being sections 556 to 562, inclusive, of the Compiled Laws of 1929, and Act No. 123 of the Public Acts of 1921, as amended, being sections 545 to 555, inclusive, of the Compiled Laws of 1929.

History: 1935, Act 59, Imd. Eff. May 17, 1935 ;-- Am. 1939, Act 152, Eff. Sept. 29, 1939

The People of the State of Michigan enact:

28.1 Michigan state police; definitions.

Sec. 1.

As employed in this act, the following words or terms shall be understood to mean:

(a) The word "commissioner" shall mean commissioner or commanding officer of the Michigan state police.

(b) "Acting commissioner" shall mean the acting commissioner or commanding officer of the Michigan state police.

(c) "Officer" shall mean any member of the Michigan state police executing the constitutional oath of office.

(d) "Civilian employe" shall mean any employe not executing the constitutional oath of office.

(e) "Members,""members of the department," or "members of said department" shall mean any employe of said department whether an officer or a civilian employe.

(f) "Department" shall mean the "Michigan state police."

History: 1935, Act 59, Imd. Eff. May 17, 1935 ;-- CL 1948, 28.1

28.2 Michigan state police; creation; director, appointment, salary, oath of office, location of department.

Sec. 2.

There is created a department of the state government which shall be known and designated as the Michigan state police, which shall consist of a director as its executive head, and of such officers and employees as may be appointed or employed in such department. The director shall be appointed by the governor, by and with the advice and consent of the senate, and shall hold office during good behavior. The salary of the director shall be such as shall be appropriated by the legislature. The director shall execute the constitutional oath of office.

History: 1935, Act 59, Imd. Eff. May 17, 1935 ;-- CL 1948, 28.2 ;-- Am. 1952, Act 253, Eff. Sept. 18, 1952 ;-- Am. 1967, Act 68, Eff. Mar. 22, 1968

28.3 Acting commissioner; designation, compensation, length of service.

Sec. 3.

The commissioner may appoint or designate 3 officers from among the 10 highest ranking commissioned officers of the department to serve in the order of precedence, as named, as acting commissioner in his absence from the aforesaid office, during his illness and/or during his disability for any reason to perform his duties: Provided, however, That any such officer so acting shall receive no additional compensation by virtue thereof. An officer appointed or designated or serving as acting commissioner may be relieved from such appointment or designation or service at the will of the commissioner.

History: 1935, Act 59, Imd. Eff. May 17, 1935 ;-- CL 1948, 28.3

28.4 Uniformed personnel and detective personnel; organization; highway patrol; classification of department members as officers and civilian employees; qualifications of officers; oath of office; hearing; dismissal.

Sec. 4.

(1) The department shall consist of uniformed personnel and detective personnel, organized in divisions, bureaus, or branches as established by law or by the director in his or her discretion.

(2) The director shall establish a highway patrol consisting of not fewer than 100 members.

(3) The director shall appoint and employ all members of the department, who shall be classified as officers and civilian employees.

(4) All persons appointed as officers shall be at the time of their appointment not less than 21 years of age, shall be of sound mind and body, shall be of good moral character, shall be citizens of the United States and residents of the state of Michigan, and shall possess such educational qualifications as the director may from time to time prescribe. All persons appointed as officers shall execute the constitutional oath of office before entering upon their duties.

(5) An officer shall not be dismissed until a due hearing on his or her removal is held as provided in this act, unless a reduction in expenditures is required due to insufficient funds, in which case the officer or officers junior in point of service shall be dismissed. A civilian employee may not be dismissed without a due hearing on his or her removal, unless a reduction in expenditures is required due to insufficient funds.

History: 1935, Act 59, Imd. Eff. May 17, 1935 ;-- Am. 1941, Act 115, Imd. Eff. May 21, 1941 ;-- CL 1948, 28.4 ;-- Am. 2009, Act 180, Imd. Eff. Dec. 15, 2009

28.5 Repealed. 2006, Act 190, Imd. Eff. June 19, 2006.

Compiler's Notes: The repealed section pertained to transfer of certain departments and offices to Michigan state police.

28.5a Disposal of firearms.

Sec. 5a.

(1) Beginning on the effective date of the amendatory act that added this section, the department shall dispose of all firearms that are purchased by a municipality under a gun buyback program and turned over to the department.

(2) The department shall dispose of all firearms described under subsection (1) by destroying the firearms. The department shall ensure that all parts of the firearms disposed under subsection (1) are destroyed. The department shall not resell any firearm described under subsection (1).

(3) As used in this section, "firearm" means any weapon that will, is designed to, or may readily be converted to expel a projectile by action of an explosive.

History: Add. 2024, Act 265, Eff. Apr. 2, 2025

28.6 Commissioner and officers; powers and duties generally.

Sec. 6.

(1) The commissioner and each officer of the department are vested with the powers of a conservator of the peace. They may also apply to any judicial officer of the state for the issuance of search warrants, warrants of arrest or any other criminal process, or orders necessary when the institution of criminal proceedings for the discovery or punishment of a felony or a misdemeanor of any degree is ordered in writing by the attorney general in any case where the proper prosecuting attorney fails or refuses to act or give his or her approval. The commissioner and each officer of the department have all the immunities and matters of defense available to conservators of the peace or sheriffs, or both, in any action brought against them by virtue of acts done in the course of their employment.

(2) Any member of the department may serve and execute all criminal and civil process, when directed to do so by the governor or the attorney general, in actions and matters in which the state is a party. The commissioner and the department are under the immediate control and direction of the governor, and any member of the department may be employed by the attorney general in any investigation or matter under the jurisdiction of his or her department.

(3) The commissioner may, upon the order of the governor, call upon any sheriff or other police officer of any county, city, township, or village, within the limits of their respective jurisdictions, for aid and assistance in the performance of any duty imposed by this act. Upon being notified or called upon for aid and assistance, the officer concerned shall comply with the order to the extent requested. Refusal or neglect to comply with the order is misfeasance in office, and shall subject the officer refusing or neglecting to comply with the order to removal from office.

(4) The commissioner shall formulate and put into effect plans and means of cooperating with the local police and peace officers throughout the state for the purpose of the prevention and discovery of crimes and the apprehension of criminals. Local police and peace officers shall cooperate with the commissioner in those plans and means. Every telegraph and telephone company operating within this state shall grant priority of service to the police agencies and to the state police when notified that the service is urgent and in the interests of the public safety.

(5) The commissioner and all officers of the department have all the powers of deputy sheriffs in the execution of the criminal laws of the state and of all laws for the discovery and prevention of crime, and have authority to make arrests without warrants for all violations of the law committed in their presence, including laws designed for the protection of the public in the use of the highways of the state, and to serve and execute all criminal process. The commissioner and all officers of the department also have the authority to exercise the powers of deputy sheriffs in the execution of civil bench warrants issued by a circuit court pursuant to any domestic relations matter and to serve a personal protection order or arrest an individual who is violating or has violated a personal protection order issued under section 2950 or 2950a of the revised judicature act of 1961, 1961 PA 236, MCL 600.2950 and 600.2950a. The commissioner and all officers of the department shall cooperate with other state authorities and local authorities in detecting crime, apprehending criminals, and preserving law and order throughout the state.

History: 1935, Act 59, Imd. Eff. May 17, 1935 ;-- CL 1948, 28.6 ;-- Am. 1989, Act 10, Imd. Eff. May 3, 1989 ;-- Am. 2000, Act 83, Eff. July 1, 2000

28.6a Conservation officers; appointment by commissioner as state police officers.

Sec. 6a.

The commissioner is hereby authorized, with the approval of the director of conservation and the governor, to appoint any conservation officer as a special state police officer, who shall be vested with the powers of an officer

of the state police, and who shall in his capacity as special state police officer be under the direction of the commissioner.

History: Add. 1942, 1st Ex. Sess., Act 4, Imd. Eff. Jan. 28, 1942 ;-- CL 1948, 28.6a

28.6b Repealed. 2000, Act 197, Imd. Eff. June 22, 2000.

Compiler's Notes: The repealed section pertained to state police reserve.

28.6c Limited arrest powers for certain security personnel; authorization; exercise; rescission; firearms; exclusion of security personnel from pension, accident, and disability plan.

Sec. 6c.

(1) The director may authorize, in writing, on forms prescribed by the director or his or her designee, limited arrest powers for security personnel employed by the state for the protection of state owned or leased property and facilities. Limited arrest authority may be exercised only when the security employee is on a tour of duty as prescribed by the director upon state owned or leased property and the person is identified by a uniform as a state security employee. Limited arrest power is automatically rescinded on termination of employment with this state. The director may authorize security employees to carry a firearm while on duty.

(2) A security employee granted limited arrest authority under this section is not entitled by reason of employment to become a member of a state police pension, accident, and disability plan established under the state police retirement act of 1986, 1986 PA 182, MCL 38.1601 to 38.1675, or other similar departmental program.

History: Add. 1976, Act 65, Imd. Eff. Mar. 31, 1976 ;-- Am. 2018, Act 5, Eff. Apr. 26, 2018 ;-- Am. 2018, Act 675, Imd. Eff. Dec. 28, 2018

28.6d Motor carrier enforcement; appointment of officers with limited arrest powers; firearms; circumstances permitting arrest without warrant; officer not entitled to membership in state police pension, accident, and disability plan or similar program.

Sec. 6d.

(1) The director may appoint officers with limited arrest powers for motor carrier enforcement. Such officers shall be officers of the motor carrier enforcement division of the department and shall have all powers conferred upon peace officers for the purpose of enforcing the general laws of this state as they pertain to commercial vehicles. The director may authorize officers of the motor carrier enforcement division to carry a firearm.

(2) In addition to the limited arrest authority granted in subsection (1), an officer of the motor carrier enforcement division, while on duty, may arrest a person without a warrant, if 1 or more of the following circumstances exist:

(a) The person commits an assault or an assault and battery punishable under section 81 or 81a of the Michigan penal code, Act No. 328 of the Public Acts of 1931, being sections 750.81 and 750.81a of the Michigan Compiled Laws, against the officer or against another person in the presence of the officer.

(b) The officer has reasonable cause to believe that a felony has been committed and reasonable cause to believe that the person committed it.

(c) The officer has received positive information by written, telegraphic, teletypic, telephonic, radio, or other authoritative source, that a peace officer holds a warrant for the person's arrest.

(d) The person commits a civil infraction or misdemeanor in violation of 1 or more of the following sections of the Michigan vehicle code, Act No. 300 of the Public Acts of 1949:

(i) Section 625 or 625b, being sections 257.625 and 257.625b of the Michigan Compiled Laws.

(ii) Sections 716 to 726, being sections 257.716 to 257.726 of the Michigan Compiled Laws.

(e) The person commits a misdemeanor or felony in violation of chapter LVI of the Michigan penal code, Act No. 328 of the Public Acts of 1931, being sections 750.377 to 750.394 of the Michigan Compiled Laws.

(3) An officer appointed by authority of this section shall not be entitled by reason of employment to become a member of the state police pension, accident, and disability plan established by Act No. 251 of the Public Acts of 1935, being sections 28.101 to 28.110 of the Michigan Compiled Laws, or other similar department program.

History: Add. 1982, Act 531, Imd. Eff. Dec. 31, 1982

28.6e Law enforcement officer of Michigan Indian tribal police force; appointment; compensation; participation in pension or insurance plan; definitions.

Sec. 6e.

(1) The director may appoint a law enforcement officer of a Michigan Indian tribal police force to act as a police officer for a Michigan Indian tribe upon Indian country of the tribe.

(2) The department of state police and the director are not liable for the acts of a law enforcement officer of a Michigan Indian tribal police force who is appointed under this section.

(3) The Michigan Indian tribe to which the law enforcement officer of a Michigan Indian tribal police force is appointed shall pay compensation to the officer.

(4) A law enforcement officer of a Michigan Indian tribal police force appointed under this section is not eligible to participate in any state pension, disability, or life insurance plan or any hospitalization or other medical insurance plan of the department solely on the basis of his or her employment under this section.

(5) As used in this section:

(a) "Law enforcement officer of a Michigan Indian tribal police force" means a regularly employed member of a police force of a Michigan Indian tribe who is appointed pursuant to 25 C.F.R. 12.100 to 12.103.

(b) "Michigan Indian tribe" means a federally recognized Indian tribe that has trust lands located within this state.

(c) "Indian country" means all of the following:

(i) All land within the limits of any Indian reservation under the jurisdiction of the United States government, notwithstanding the issuance of any patent, and including rights-of-way running through the reservation.

(ii) All dependent Indian communities within the borders of the United States whether within the original or subsequently acquired territory of the dependent Indian community, and whether within or without the limits of a state.

(iii) All Indian allotments, the Indian titles to which have not been extinguished, including rights-of-way.

History: Add. 1995, Act 203, Imd. Eff. Nov. 29, 1995

28.7 Duties of director.

Sec. 7.

The director shall provide the officers of the department with suitable uniforms, arms, equipment, quarters, and other articles necessary, and also the expense and means of travel and boarding them, if necessary. The director shall establish and maintain local headquarters in various places, and may do so by agreement, lease, or otherwise, so as to best establish the department throughout the various sections of the state where it will be most efficient in carrying out the purpose of this act, to preserve peace and prevent crime. The director shall fix the location of the various units of the department, prescribe the uniforms and equipment of all members of the department, the character of the training and discipline, and the general policy in respect to the use and employment of all members of the department.

History: 1935, Act 59, Imd. Eff. May 17, 1935 ;-- CL 1948, 28.7 ;-- Am. 1976, Act 7, Imd. Eff. Feb. 11, 1976

28.7a Repealed. 1964, Act 256, Eff. Aug. 28, 1964.

Compiler's Notes: The repealed section authorized commissioner of state police to sell certain personal property.

28.7b Quarters and boarding.

Sec. 7b.

A person enlisting in the department after the effective date of this amendatory act shall not be furnished quarters and boarding on a permanent basis.

History: Add. 1976, Act 7, Imd. Eff. Feb. 11, 1976

28.8 Officers; grades; powers and duties; transportation of officers and civilian employees.

Sec. 8.

The grades and duties of the officers of the department are colonel, lieutenant colonel, major, captain, inspector, lieutenant, sergeant, trooper, and recruit. The officers may carry arms either openly or concealed. Every member of the department is subject to orders at any time, and the officers of the department at all times have the authority to apprehend criminals and preserve law and order. When traveling on duty, officers and civilian employees of the department are entitled to transportation on any railroad, passenger steamboat line, airline, or passenger bus line upon presentation of a requisition for the transportation signed by the director of the department and those carriers are entitled to compensation for transportation furnished out of money appropriated for the department.

History: 1935, Act 59, Imd. Eff. May 17, 1935 ;-- CL 1948, 28.8 ;-- Am. 1976, Act 7, Imd. Eff. Feb. 11, 1976 ;-- Am. 2016, Act 12, Eff. May 16, 2016

28.9 Rules and regulations of department adopted by commissioner.

Sec. 9.

The commissioner shall make and adopt rules and regulations for the direction, control, discipline and conduct of the members of said department, for promotion on the basis of seniority of service, qualifications being equal, of the officers of the department, for the filing and hearing of charges against such officers and he may make any other rules and regulations for the governing and operation of said department as shall appear to him reasonably necessary to carry out the purposes of this act. He may require any officer or employe, who may receive and/or disburse public funds in the course of his duties, to file a bond conditioned that he will honestly, correctly, and according to law receive, disburse, pay over and/or account for all public moneys coming into his hands, such bond to be approved as to form, amount and surety by the attorney general.

History: 1935, Act 59, Imd. Eff. May 17, 1935 ;-- CL 1948, 28.9

28.10 Repealed. 2002, Act 324, Imd. Eff. May 23, 2002.

Compiler's Notes: The repealed section pertained to members of department prohibited from taking part in political campaigns.

28.11 Repealed. 1952, Act 253, Eff. Sept. 18, 1952.

Compiler's Notes: The repealed section provided means for removal from office of commissioner of state police.

28.12 Trial board; members, powers; powers of commissioner as presiding officer.

Sec. 12.

A trial board to hear charges against officers of the department consisting of the commissioner and 3 officers from among the 10 commissioned officers of the department, senior in service, shall be appointed by the commissioner. The commissioner shall be the presiding officer thereof and make all necessary rulings during the course of any hearing. He shall also make rules and regulations for the filing of verified written charges against an accused officer, for a due hearing thereon upon not less than 10 days notice and for an opportunity to the officer to produce proof in his defense. Such hearing may be held at any place designated by the commissioner.

The commissioner or the officer acting in his stead as presiding officer of the trial board is empowered to issue subpoenas to compel the attendance of witnesses and the production of evidence in support of charges, and shall issue subpoenas for witnesses for the defense and shall on his own motion if he have knowledge or be informed of other persons having knowledge of the matters charged compel their attendance at the hearing by subpoena. Persons summoned as witnesses before the trial board shall be entitled to witness fees and mileage for traveling, as provided by law for witnesses in courts of record in the county in which the hearing is held, and failure or refusal to obey any such subpoena shall be brought to the attention of the circuit court of the county wherein the hearing is held, and shall be punished by said court as a contempt. Upon written order of the commissioner, any officer appointed or designated to act in his absence as acting commissioner may sit in his place and stead as presiding officer of said trial board. If the charges be proved the trial board shall make a finding of guilty and recommend either removal of the officer or such disciplinary punishment as prescribed by the rules and regulations which, in their opinion, the offense merits; thereupon the commissioner shall direct such removal or punishment. If any officer refuses to abide by any such disciplinary order, the commissioner may by order remove him forthwith. Nothing herein contained shall require a hearing before said board before disciplinary measures may be taken by the commissioner or any commanding officer of a detachment or unit for the punishment of minor infractions of the rules and regulations of the department.

History: 1935, Act 59, Imd. Eff. May 17, 1935 ;-- CL 1948, 28.12

28.12a Injury to person or property caused by negligent operation of motor vehicle by state police officer or employee; reimbursement.

Sec. 12a.

In case of injury to any person, or property damage, or both, caused by the negligent operation of a motor vehicle belonging to the department of state police by an officer or employee of the department of state police, a complaint may be filed with the director of the department of state police. An investigation into the accident shall be made as provided in the rules of the department of state police. If that investigation discloses that the accident was due to the negligence of that officer or employee of the department of state police, and was not due to the negligence of any other person, a report of the investigation shall be filed in the office of the director of the department of state police. After examination of the report and, if in the opinion of the director, reimbursement for the injury to, or property damage, or both, is a proper claim, and if the claim does not exceed $200.00, the director shall make recommendation for payment, payable from the appropriation to the department of state police, and

shall submit the claim and recommendation to the state administrative board. Notwithstanding any provision of law to the contrary, if the claim and recommendation are approved by the state administrative board, the claim shall be paid.

History: Add. 1943, Act 181, Eff. July 30, 1943 ;-- CL 1948, 28.12a ;-- Am. 2002, Act 371, Imd. Eff. May 24, 2002

28.13 Incumbents; continuation; construction of act.

Sec. 13.

Until the governor shall appoint a commissioner as herein provided, the present commissioner of the department of public safety shall continue in office as such commissioner. Nothing herein contained shall be deemed to terminate any commission, appointment, or employment heretofore existing under the provisions of acts hereinafter repealed. All matters and orders pending before or made by any officer or department transferred under this act to the department of Michigan state police shall be deemed to be continued with like status in such department of Michigan state police. All existing appropriations for the support and maintenance of any office, department, division, bureau, or branch, transferred under this act, or for the performance of any duties, so transferred to the said department of Michigan state police, are hereby transferred to said department for the support and maintenance of the department of the Michigan state police. Whenever reference is made in any law to the "commissioner of public safety" or to the "department of public safety" such reference shall be construed to mean, respectively, the commissioner of the Michigan state police and department of Michigan state police herein provided for.

History: 1935, Act 59, Imd. Eff. May 17, 1935 ;-- CL 1948, 28.13

28.14 Disposition of fees.

Sec. 14.

All fees or other moneys received by said Michigan state police shall be forwarded to the state treasurer each month and shall by said treasurer be deposited in the state treasury to be disbursed in such manner and for such purposes as may be provided by law.

History: 1935, Act 59, Imd. Eff. May 17, 1935 ;-- CL 1948, 28.14

28.15 Biennial report of commissioner to governor.

Sec. 15.

On or before the first day of January of each year in which a regular session of the legislature is held, the commissioner shall make and file with the governor a report covering the preceding biennial period, covering the activities of the department and the receipts and disbursements made thereby. Said report shall be accompanied by the recommendations of the commissioner with reference to such changes in the laws applying to or affecting the department as the said commissioner may deem expedient. All salaries and expenses hereby authorized shall be paid in the same manner as the salaries and expenses of other state officers and employes are paid.

History: 1935, Act 59, Imd. Eff. May 17, 1935 ;-- CL 1948, 28.15

28.16 Firearms safety program; public service announcements; “weapon free school zones” defined; availability of program and public service announcements.

Sec. 16.

(1) The department shall establish and maintain a firearms safety program to educate children about the dangerous nature and safe handling of firearms. The department shall make the program available to local school districts.

(2) The department shall produce or arrange for the production of public service announcements to educate the public about the need to keep firearms and other weapons securely stored so that they are not accessible to children and the need to operate or use firearms or other weapons in a safe and lawful manner.

(3) The department shall produce or arrange for the production of public service announcements to educate the public about weapon free school zones. As used in this subsection, "weapon free school zone" means that term as defined in section 237a of the Michigan penal code, Act No. 328 of the Public Acts of 1931, being section 750.237a of the Michigan Compiled Laws.

(4) The department shall make the public service announcements described in subsections (2) and (3) available to television and radio stations throughout this state.

History: Add. 1993, Act 321, Eff. Apr. 1, 1994

EXECUTIVE REORGANIZATION ORDER

E.R.O. No. 1982-1

28.21 Transfer of public service commission highway enforcement functions to department of state police.

WHEREAS, the Michigan Public Service Commission of the Department of Commerce is vested by law with the authority to appoint inspectors to enforce the laws, rules and regulations relating to motor carrier regulation; and

WHEREAS, much of this Public Service Commission enforcement activity occurs on Michigan streets and highways which are also patrolled by the Department of State Police; and

WHEREAS, it is in the public interests to eliminate duplication and to increase the State's efficiency and effectiveness of service; and

WHEREAS, Article V, Section 2, of the Michigan Constitution of 1963 empowers the Governor to make changes in the organization of the Executive Branch or assignment of functions among its units which are necessary for efficient administration.

NOW, THEREFORE, I, WILLIAM G. MILLIKEN, Governor of the State of Michigan, pursuant to the authority vested in me by Article V, Section 2, of the Constitution of the State of Michigan, do hereby order the following:

Section 1. All the powers, duties, functions and responsibilities of the Public Service Commission pursuant to Sections 238 and 239 of Act No. 380 of the Public Acts of 1965, as amended by Act No. 77 of the Public Acts of 1968, being Sections 16.338 and 16.339 of the Compiled Laws of 1979; Act No. 115 of the Public Acts of 1970, being Section 460.41 of the Compiled Laws of 1979; Act 288 of the Public Acts of 1965, as amended, being Section 286.601 of the Compiled Laws of 1979; and Act 181 of the Public Acts of 1963, as amended, being Sections 480.11 through 480.19 of the Compiled Laws of 1979; are hereby transferred to the Department of State Police.

Section 2. It is the intent of this order to transfer to the Department of State Police only that statutory authority, including rulemaking authority, that is necessary to effectively perform the highway enforcement functions relating to the motor carrier vehicles moving in commerce upon the public highways of the State of Michigan. All other functions and authority, including but not limited to all non-highway related functions, shall be retained by the Public Service Commission.

Section 3. Of the total of 138 positions currently appropriated in fiscal year 1981-82 for motor carrier enforcement related responsibilities, the equivalent of 133 positions are transferred to the Department of State Police to perform the functions set forth above. The equivalent of 5 positions are retained by the Public Service Commission to provide the non-highway enforcement and investigative activity essential to the achievement of comprehensive motor carrier regulation.

Section 4. Except as provided in Section 3, all records, property, personnel and unexpended balances of appropriations, allocations and other funds used, held, employed, available, or to be made available to the Michigan Public Service Commission for the activities transferred to the Department of State Police by this Order are hereby transferred to the Department of State Police.

Section 5. After the effective date of this order, the Department of Commerce and the Department of State Police shall make internal organizational changes as may be administratively necessary to complete the realignment of responsibilities prescribed by this order. It is intended, however, that the personnel changes authorized by this order shall be achieved without adversely affecting the existing rights and interests of individual employees.

In fulfillment of the requirement of Article V, Section 2, of the Constitution of the State of Michigan, the provisions of this Executive Order shall become effective October 1, 1982.

History: 1982, E.R.O. No. 1982-1, Eff. Oct. 1, 1982
Compiler's Notes: This section was promulgated January 23, 1982, as Executive Order No. 1982-1 and became effective October 1, 1982.
Admin Rule: R 460.16101 et seq. and R 460.18101 et seq. of the Michigan Administrative Code.

EXECUTIVE REORGANIZATION ORDER

E.R.O. No. 1989-1

28.31 Transfer of administration and distribution of secondary road patrol and traffic accident prevention funds to office of highway safety planning.

WHEREAS, it is the duty of all local police and peace officers and the duty of the director of the Department of State Police to cooperate with all other state and local law enforcement authorities in the detecting of crime, enforcing traffic laws, the apprehending of criminals, the preservation of law and order throughout the state, and the protection of the public in the use of the highways of this state; and

WHEREAS, it is in the public interest to avoid duplication of effort and to increase the efficiency and effectiveness of law enforcement road patrols; and

WHEREAS, Article 5, Section 2, of the Michigan Constitution of 1963 empowers the Governor to make changes in the organization of the Executive Branch or assignment of functions among its units which are necessary for efficient administration;

NOW, THEREFORE, I, JAMES J. BLANCHARD, Governor of the State of Michigan, pursuant to the powers vested in me by the Michigan Constitution of 1963 and the laws of the State of Michigan, do hereby order the following:

1. All the powers, duties, functions, and responsibilities of the Office of Criminal Justice to administer state funds appropriated for the implementation of secondary road patrols and traffic accident prevention as set forth by Section 77 of Act 313 of the Public Acts of 1982, being Section 51.77 of the Compiled Law of 1979, are hereby transferred to the Office of Highway Safety Planning within the Department of State Police.

2. The Director of the Department of State Police, or a person designated by the director in writing, shall be the state official authorized to enter into the agreements with a county pursuant to Section 77 of Act 313 of the Public Acts of 1982, being Section 51.77 of the Compiled Laws of 1979.

3. Of the total of one (1) position currently appropriated in fiscal year 1988-89 for Office of Criminal Justice related responsibilities, the equivalent of one (1) position is transferred to the Department of State Police to preform the functions set forth above.

4. All records, property, personnel, and unexpended balances of appropriations, allocations and other funds used, held, employed, available, or to be made available to the Office of Criminal Justice for the activities transferred to the Department of State Police by this Order are hereby transferred to the Department of State Police.

5. After the effective date of this Order, the Office of Criminal Justice and the Office of Highway Safety Planning within the Department of State Police shall make internal organizational changes as may be administratively necessary to complete the realignment of responsibilities prescribed by this Order. It is intended, however, that the personnel changes authorized by this Order shall be achieved without adversely affecting the existing rights and interests of individual employees.

History: 1989, E.R.O. No. 1989-1, Eff. Oct. 1, 1989
Compiler's Notes: Executive Reorganization Order No. 1989-1 was promulgated May 15, 1989, as Executive Order No. 1989-4 and became effective October 1, 1989.In the paragraph numbered "3.", the phrase "to preform the functions set forth" evidently should read "to perform the functions set forth."

SUBVERSIVE ACTIVITIES INVESTIGATION DIVISION

Act 40 of 1950 (Ex. Sess.)

28.51-28.56 Repealed. 1978, Act 571, Imd. Eff. Jan. 2, 1979.

EXECUTIVE REORGANIZATION ORDER

E.R.O. No. 1969-1

28.61 Executive reorganization order no. 1969-1; creating office of highway safety planning and designating governor's highway safety program representative.

WHEREAS, the Congress has enacted the Highway Safety Act of 1966, as amended, requiring Michigan to establish a highway safety program designed to reduce traffic accidents and deaths, injuries and property damage resulting therefrom, and

WHEREAS, Act 213 of the Public Acts of 1967 authorizes the Governor to take action necessary to secure the benefits available under the federal Highway Safety Act of 1966; and

WHEREAS, the Federal Highway Safety Act of 1966 requires that the Governor of the State be responsible for the administration of the Michigan highway safety program; and

WHEREAS, the highway safety program has been administered within the Executive Office of the Governor and for reasons of administrative efficiency, the functions performed in this program should be administered within one of the principal departments of the state; and

WHEREAS, there is a need for a unified effort by state and local governments to halt the tragedy of highway accidents;

THEREFORE, I, William G. Milliken, Governor of the State of Michigan, pursuant to the authority vested in me by the Constitution of the State of Michigan and by Act 213 of the Public Acts of 1967 do hereby transfer the highway safety program function from the Executive Office of the Governor to the Department of State Police, and order the establishment of the Office of Highway Safety Planning to be located in the Department of State Police.

I hereby designate the executive director of the Office of Highway Safety Planning as the official representative of the Governor for the administration of the Michigan Highway Safety Program under the Highway Safety Act of 1966 and do hereby order the Director of the Department of State Police to combine the functions of the Office of Highway Safety Planning and the staff functions of the Michigan Safety Commission.

Among the functions and responsibilities of the Office shall be the following:

1. To provide, through use of all available resources, a comprehensive statewide highway safety plan to reduce traffic accidents and deaths, injuries and property damage resulting therefrom, developed in accordance with the highway safety needs and objectives of the State of Michigan and the requirements of National Highway Safety

Standards.

2. To apply for and accept grants from the federal government under the provisions of the Highway Safety Act of 1966 and to expend or approve for expenditure such grants in a manner consistent with the Constitution and laws of the State of Michigan.

3. To apply for and accept grants from any public or private source for use in highway safety programs and to expend such grants in a manner consistent with the Constitution and laws of the State of Michigan.

4. To administer a highway safety grants program to state departments and local units of government according to the rules, regulations and procedures established under the Highway Safety Act of 1966 and the laws of the State of Michigan.

5. To assist in the coordination of the highway safety programs of all state departments and agencies, local units of government, and private agencies.

From and after the effective date of this order, all records, property, personnel and unexpended balances of appropriations, allocations, and other funds used, held, employed, available or to be made available to the Office of Highway Safety Planning, are transferred to the Department of State Police.

History: 1969, E.R.O. No. 1969-1, Eff. July 1, 1969

STATE ARSON STRIKE FORCE UNIT

Act 170 of 1978

AN ACT to provide for a state arson strike force unit and to prescribe the powers and duties of the strike force unit and the department of state police.

History: 1978, Act 170, Imd. Eff. May 27, 1978

The People of the State of Michigan enact:

28.71 “Person” defined.

Sec. 1.

As used in this act:

(a) "Person" means a natural person, partnership, cooperative, association, private or public corporation, personal representative, receiver, trustee, assignee, or other legal entity.

History: 1978, Act 170, Imd. Eff. May 27, 1978

28.72 State arson strike force; creation; personnel; powers.

Sec. 2.

(1) A state arson strike force unit is created within the department of state police to be comprised of personnel assigned by the director of the department of state police.

(2) The strike force unit is authorized to investigate each case involving a conspiracy to commit arson, a fire which was perpetrated to defraud a person, or any other fire which may involve the act of arson.

History: 1978, Act 170, Imd. Eff. May 27, 1978 ;-- 2006, Act 191, Imd. Eff. June 19, 2006

EXECUTIVE REORGANIZATION ORDER

E.R.O. No. 2009-29

28.91 Transfer of powers and duties of office of drug control policy related to administration of federal grants received from department of justice from department of community health to department of state police by type II transfer; transfer of powers and duties of office of drug control policy relating to administration of federal grants from federal department of education from department of community health to department of education by type II transfer.

WHEREAS, Section

1 of Article V of the Michigan Constitution of 1963 vests the executive power of the State of Michigan in the Governor;

WHEREAS, Section 2 of Article V of the Michigan Constitution of 1963 empowers the Governor to make changes in the organization of the executive branch of state government or in the assignment of functions among its units that the Governor considers necessary for efficient administration;

WHEREAS, there is a continuing need to reorganize functions amongst state departments to ensure efficient administration and effectiveness of government;

WHEREAS, under Executive Order 2009-2, all of the authority, powers, duties, functions, and responsibilities of the Office of Drug Control Policy were transferred from the Office of Drug Control Policy to the Department of Community Health and the Office of Drug Control Policy was abolished;

WHEREAS, transferring the legally mandated duties and functions of the Law Enforcement Grants Section and the Education Grants Section of the Office of Drug Control Policy from the Department of Community Health to the Departments of State Police and Education, respectively, is in the best interests of an efficient and effective government;

NOW, THEREFORE, I, Jennifer M. Granholm, Governor of the State of Michigan, by virtue of the power and authority vested in the Governor by the Michigan Constitution of 1963 and Michigan law, order the following:

I. DEFINITIONS

"As used in this Order:

A. "Department of Community Health" or "Department" means the principal department of state government created as the Department of Mental Health under Section 400 of the Executive Organization Act of 1965, 1965 PA 380, MCL 16.500, and renamed the Department of Community Health under Executive Order 1996-2, MCL 330.3101.

B. "Department of Education" means the principal department of state government created by Section 300 of the Executive Organization Act of 1965, 1965 PA 380, MCL 16.400.

C. "Department of State Police" means the principal department of state government created under Section 150 of the Executive Organization Act of 1965, 1965 PA 380, MCL 16.250.

D. "Office of Drug Control Policy" means the office established as an autonomous entity within the Department of Management and Budget under Executive Order 1991-20, transferred to the Department of Community Health by Executive Order 1996-2, MCL 330.3101, and designated as a "Type II agency" within the Department of Community Health by Executive Order 1997-4, MCL 333.26324, and abolished by Executive Order 2009-2.

E. "State Budget Director" means the individual appointed by the Governor under Section 321 of The Management and Budget Act, 1984 PA 431, MCL 18.1321.

F. "Superintendent of Public Instruction" means the principal executive officer appointed by the State Board of Education under Section 3 of Article VIII of the Michigan Constitution of 1963.

G. "Type II transfer" means that phrase as defined by Section 3(b) of the Executive Reorganization Act of 1965, 1965 PA 380, MCL 16.103(b).

H. "Type III transfer" means that term as defined under Section 3 of the Executive Organization Act of 1965, 1965 PA 380, MCL 16.103."

II. TRANSFER OF CERTAIN AUTHORITY, DUTIES, POWERS,

FUNCTIONS, AND RESPONSIBILITIES OF THE OFFICE

OF DRUG CONTROL POLICY

A. Law Enforcement Grants Section

1. All of the authority, powers, duties, functions, responsibilities, personnel, equipment, and budgetary resources of the Office of Drug Control Policy related to the administration of federal grants received from the federal Department of Justice to support state and local law enforcement, including, but not limited to, the Edward Byrne Memorial Justice Assistance Grant Program, all of which were transferred from the Office of Drug Control Policy to the Department of Community Health under Executive Order 2009-2, are transferred by Type II transfer from the Department of Community Health to the Department of State Police.

2. The Director of the State Police may designate a point of contact for the federal Department of Justice Bureau of Justice Assistance.

3. All records, property, grants, and unexpended balances of appropriations, allocations, and other funds used, held, employed, available, or to be made available to the Department of Community Health for the authority, activities, powers, duties, functions, and responsibilities transferred under Section II.A of this Order are transferred from the Department of Community Health to the Department of State Police.

4. The Director of the Department of State Police shall provide executive direction and supervision for the implementation of the transfers under Section II.A of this Order.

5. The Director of the Department of State Police shall administer the assigned functions transferred to the Department of State Police under Section II.A of this Order in such ways as to promote efficient administration and shall make internal organizational changes as may be administratively necessary to complete the realignment of responsibilities under this Order.

B. Education Grants Section

1. All of the authority, powers, duties, functions, responsibilities, personnel, equipment, and budgetary resources of the Office of Drug Control Policy related to the administration of federal grants received from the federal Department of Education, including, but not limited to, grants received pursuant to the Safe and Drug Free Schools and Communities Act of 2001, Title IV of the No Child Left Behind Act of 2001, Public Law 107-110, 20 USC 7101, all of which were transferred from the Office of Drug Control Policy to the Department of Community Health under Executive Order 2009-2, are transferred by Type II transfer from the Department of Community Health to the Department of Education.

2. All records, property, grants, and unexpended balances of appropriations, allocations, and other funds used, held, employed, available, or to be made available to the Office of Drug Control Policy for the authority, activities, powers, duties, functions, and responsibilities transferred under Section II.B of this Order are transferred from the Department of Community Health to the Department of Education.

3. The Superintendent of Public Instruction shall provide executive direction and supervision for the implementation of the transfers under Section II.B of this Order.

4. The Superintendent of Public Instruction shall administer the assigned functions transferred to the Department of Education under Section II.B of this Order in such ways as to promote efficient administration and shall make internal organizational changes as may be administratively necessary to complete the realignment of responsibilities under this Order.

III. MISCELLANEOUS

A. The State Budget Director shall determine and authorize the most efficient manner possible for handling financial transactions and records in the state's financial management system necessary for the implementation of this Order.

B. All rules, orders, contracts, and agreements relating to the transfers under this Order lawfully adopted prior to the effective date of this Order shall continue to be effective until revised, amended, repealed, or rescinded.

C. This Order shall not abate any suit, action, or other proceeding lawfully commenced by, against, or before any entity affected under this Order. Any suit, action, or other proceeding may be maintained by, against, or before the appropriate successor of any entity affected under this Order.

D. The invalidity of any portion of this Order shall not affect the validity of the remainder of the Order, which may be given effect without any invalid portion. Any portion of this Order found invalid by a court or other entity with proper jurisdiction shall be severable from the remaining portions of this Order.

In fulfillment of the requirements under Section 2 of Article V of the Michigan Constitution of 1963, the provisions of this Order are effective October 26, 2009 at 12:01 a.m.

History: 2009, E.R.O. No. 2009-29, Eff. Oct. 26, 2009

Compiler's Notes: In section I.G., the citation to "the Executive Reorganization Act of 1965" evidently should read "the Executive Organization Act of 1965".For creation of department of health and human services and abolishment of department of community health, see E.R.O. No. 2015-1, compiled at MCL 400.227.

DEPARTMENT OF PUBLIC SAFETY PENSION, ACCIDENT, AND DISABILITY FUND

Act 251 of 1935

28.101-28.110 Repealed. 1958, Act 91, Eff. Sept. 13, 1958;—1986, Act 182, Eff. Oct. 1, 1986.

UNIFORM FORFEITURE REPORTING ACT

Act 148 of 2015

AN ACT to create the uniform forfeiture reporting act; to require certain reports by reporting agencies regarding seized and forfeited property; to prescribe the powers and duties of certain local and state officials; to provide for certain fees and the expenditure of those fees; to require certain audits; to require certain reports by the department of state police; to provide for the withholding of law enforcement funds under certain circumstances; and to repeal acts and parts of acts.

History: 2015, Act 148, Eff. Feb. 1, 2016

The People of the State of Michigan enact:

28.111 Short title.

Sec. 1.

This act shall be known and may be cited as the "uniform forfeiture reporting act".

History: 2015, Act 148, Eff. Feb. 1, 2016

28.112 Agency report to department of state police regarding forfeiture of property; form; contents; applicability to certain proceedings.

Sec. 2.

(1) Subject to subsections (2) and (3), before February 1 of each year, each reporting agency shall submit a report to the department of state police summarizing the reporting agency's activities for the preceding calendar year regarding the forfeiture of property under sections 7521 to 7533 of the public health code, 1978 PA 368, MCL 333.7521 to 333.7533, section 79d of the identity theft protection act, 2004 PA 452, MCL 445.79d, chapter 38 of the revised judicature act of 1961, 1961 PA 236, MCL 600.3801 to 600.3840, and chapter 47 of the revised judicature act of 1961, 1961 PA 236, MCL 600.4701 to 600.4709. The annual report shall be made on a form as prescribed by the department and shall contain the following information, as applicable:

(a) The number of forfeiture proceedings that were instituted in the circuit court by the reporting agency.

(b) The number of forfeiture proceedings instituted by the reporting agency that were concluded in the circuit court.

(c) The number of all forfeiture proceedings instituted by the reporting agency that were pending in the circuit court at the end of the year.

(d) The number of forfeitures effectuated by the reporting agency without a forfeiture proceeding in the circuit court.

(e) The number of forfeiture proceedings subject to a consent judgment, settlement, or any other similar agreement involving the property owner and reporting agency.

(f) The number of public nuisance proceedings instituted by the reporting agency in the circuit court that concluded in an order of abatement involving the forfeiture of property.

(g) An inventory of property received by the reporting agency. Property shall be reported in accordance with each of the following categories:

(i) Residential real property.

(ii) Industrial or commercial real property.

(iii) Agricultural real property.

(iv) Money, negotiable instruments, and securities.

(v) Weapons.

(vi) Motor vehicles and other conveyances.

(vii) Other personal property of value.

(h) Each property inventoried under subdivision (g) shall include a description that contains the following information, as applicable:

(i) The date the property was seized.

(ii) The final disposition of the property, including the date the property was ordered forfeited or disposed of.

(iii) The estimated value of the property.

(iv) The violation or nuisance alleged to have been committed for which forfeiture is authorized.

(v) Whether any person was charged with the violation for which forfeiture is authorized and whether that person was ultimately convicted of that violation.

(vi) Whether any person claimed an interest in the property and the number of claimants to the property.

(vii) Whether the forfeiture resulted from an adoptive seizure. As used in this subdivision, "adoptive seizure" means that all of the following apply:

(A) The seizure resulted from a violation of state law and there is a federal basis for the forfeiture action.

(B) All of the preseizure activity and related investigations were performed by this state or the local reporting agency before a request was made to the federal government for adoption.

(C) The seizure did not result from a joint investigation or task force case.

(viii) Whether the property was seized pursuant to a search or arrest warrant or incident to arrest.

(ix) Whether a controlled substance was found in the course of the investigation that resulted in the forfeiture of the property.

(i) The net total proceeds of all property forfeited through actions instituted by the reporting agency that the reporting agency is required to account for and report to the state treasurer under either of the following, as applicable:

(i) 1919 PA 71, MCL 21.41 to 21.55.

(ii) The uniform budgeting and accounting act, 1968 PA 2, MCL 141.421 to 141.440a.

(j) For forfeiture proceedings instituted under the public health code, 1978 PA 368, MCL 333.1101 to 333.25211:

(i) A statement explaining how any money received by the reporting agency under section 7524(1)(b)(ii) of the public health code, 1978 PA 368, MCL 333.7524, has been used or is being used for law enforcement purposes.

(ii) A statement of the number of lights for plant growth or scales donated under section 7524(2) of the public health code, 1978 PA 368, MCL 333.7524, the total value of those lights or scales, and the elementary or secondary schools or institutions of higher education to which they were donated.

(k) For nuisance proceedings instituted under chapter 38 of the revised judicature act of 1961, 1961 PA 236, MCL 600.3801 to 600.3840, a statement explaining how net proceeds were directed under section 3835 of the revised judicature act of 1961, 1961 PA 236, MCL 600.3835.

(l) For forfeiture proceedings instituted under chapter 47 of the revised judicature act of 1961, 1961 PA 236, MCL 600.4701 to 600.4709, the amount of money received under section 4708(1)(f) of the revised judicature act of 1961, 1961 PA 235, MCL 600.4708, that was used to enhance enforcement of criminal laws and the amount of money that was used to implement the William Van Regenmorter crime victim's rights act, 1985 PA 87, MCL 780.751 to 780.834.

(2) Subsection (1) applies only to proceedings commenced on or after the effective date of this act.

(3) Subsection (1)(h) through (l) applies only to proceedings that have been finalized for purposes of appeal.

History: 2015, Act 148, Eff. Feb. 1, 2016

28.113 Agencies not engaging in forfeiture; null report.

Sec. 3.

A null report shall be filed under this act by a reporting agency that did not engage in any forfeitures during the reporting period.

History: 2015, Act 148, Eff. Feb. 1, 2016

28.114 Use of forfeiture proceeds to pay reporting costs.

Sec. 4.

A reporting agency may use forfeiture proceeds to pay the reasonable costs associated with compiling, analyzing, and reporting data under this act.

History: 2015, Act 148, Eff. Feb. 1, 2016

28.115 Audit.

Sec. 5.

(1) The records of a reporting agency regarding the forfeiture of any property that is required to be reported under this act shall be audited in accordance with 1 of the following, as applicable:

(a) 1919 PA 71, MCL 21.41 to 21.55.

(b) The uniform budgeting and accounting act, 1968 PA 2, MCL 141.421 to 141.440a.

(2) The records of a reporting agency regarding the forfeiture of any property required to be reported under this act may be audited by an auditor of the local unit of government.

History: 2015, Act 148, Eff. Feb. 1, 2016

28.116 Compilation of information by department of state police; filing of report with secretary of senate and clerk of house of representatives; placement of report on department website; identification of departments, agencies, or local units of government failing to report information.

Sec. 6.

The department of state police shall compile the information reported to the department under sections 2 and 3. Beginning January 1, 2017, the department shall file an annual report of its findings under this section with the secretary of the senate and with the clerk of the house of representatives and shall place a copy of the report on its departmental website. The report shall be filed not later than July 1 of each year. The report shall identify any state departments or agencies or local units of government that have failed to properly report the information required under sections 2 and 3 with the department of state police.

History: 2015, Act 148, Eff. Feb. 1, 2016

28.117 Definitions

Sec. 7.

As used in this act:
(a) "Local unit of government" means a village, city, township, or county.
(b) "Reporting agency" means 1 of the following:
(i) If property is seized by or forfeited to a local unit of government, that local unit of government.
(ii) If property is seized by or forfeited to this state, the state department or agency effectuating the seizure or forfeiture.

History: 2015, Act 148, Eff. Feb. 1, 2016

METHAMPHETAMINE ABUSE REPORTING ACT

Act 276 of 2014

AN ACT to create the methamphetamine abuse reporting act; to require the department of state police to report methamphetamine-related offenses to the national association of drug diversion investigators (NADDI); to require the entry of methamphetamine-related offenses into the national precursor log exchange (NPLEx) system; to provide civil immunity under certain circumstances; to prohibit the disclosure of certain information under certain circumstances; and to provide remedies and penalties.

History: 2014, Act 276, Eff. Jan. 1, 2015

The People of the State of Michigan enact:

28.121 Short title.

Sec. 1.

This act shall be known and may be cited as the "methamphetamine abuse reporting act".

History: 2014, Act 276, Eff. Jan. 1, 2015

28.122 Definitions.

Sec. 2.

As used in this act:
(a) "Department" means the department of state police.
(b) "Methamphetamine-related offense" means 1 or more of the following offenses under Michigan law:
(i) A violation or attempted violation of article 7 of the public health code, 1978 PA 368, MCL 333.7101 to 333.7545, involving methamphetamine.
(ii) A violation or attempted violation of section 17766c or 17766f of the public health code, 1978 PA 368, MCL 333.17766c and 333.17766f.
(iii) Conspiracy to commit an offense described in subparagraph (i) or (ii).
(c) "NADDI" means the national association of drug diversion investigators.
(d) "NPLEx" means the national precursor log exchange.

History: 2014, Act 276, Eff. Jan. 1, 2015

28.123 Notification of conviction to NADDI; information.

Sec. 3.

If the department is notified by the court that an individual has been convicted of a methamphetamine-related offense on or after the effective date of this act, the department shall notify NADDI of that conviction. The department may consult with NADDI regarding the conviction information that is to be provided under this act and may limit the information provided to NADDI based upon those requirements. However, the information provided to NADDI under this section shall, at a minimum, include all of the following:

(a) The individual's full name.

(b) The individual's date of birth.

(c) The individual's driver license number or state personal identification card number, if known by the department.

(d) A statement that the individual has been convicted of a methamphetamine-related offense. A statutory citation to the violation satisfies the requirements of this subdivision.

(e) A statement of the date of conviction.

History: 2014, Act 276, Eff. Jan. 1, 2015

28.124 Stop-sale alert; purpose of information provided to NADDI; expiration.

Sec. 4.

(1) The information provided to NADDI under this section shall be for the purpose of generating a stop-sale alert through NPLEx for individuals who have been convicted of methamphetamine-related offenses. Except as provided in subsection (2), the stop-sale alert applies until the expiration of 10 years after the individual is convicted of the methamphetamine-related offense.

(2) The stop-sale alert applies until the expiration of 5 years after the individual is convicted of violating section 7340c(3) of the public health code, 1978 PA 368, MCL 333.7340c.

History: 2014, Act 276, Eff. Jan. 1, 2015 ;-- Am. 2016, Act 127, Eff. Aug. 23, 2016

28.125 Statement on NPLEx.

Sec. 5.

NADDI may provide a statement on NPLEx that the stop-sale alert is generated because of a conviction for a methamphetamine-related offense and that the individual to whom the stop order applies may contact the department of state police if he or she believes that the information reported to NADDI under this act is erroneous.

History: 2014, Act 276, Eff. Jan. 1, 2015

28.126 Conditions requiring notification; correcting, updating, or removing information.

Sec. 6.

(1) The department shall notify NADDI if any of the following apply:

(a) The department corrects or updates any information regarding the conviction, if that information was previously reported to NADDI.

(b) The department determines that the conviction has been set aside under 1965 PA 213, MCL 780.621 to 780.624, or otherwise expunged.

(2) NADDI shall promptly correct or update information in, or remove information from, NPLEx upon receiving notification by the department under subsection (1).

History: 2014, Act 276, Eff. Jan. 1, 2015

28.127 Immunity from civil liability.

Sec. 7.

The department and NADDI are immune from civil liability for compiling, maintaining, or reporting methamphetamine-related offense information under this act.

History: 2014, Act 276, Eff. Jan. 1, 2015

28.128 Reliance on and use of information by retailer; immunity from civil liability; disclosure of information; violation as misdemeanor; penalty.

Sec. 8.

(1) A person who sells ephedrine or pseudoephedrine at retail may rely on information provided by the department to NADDI under this act for enforcing a stop-sale alert based upon a report of a conviction for a methamphetamine-related offense and, except as provided in subsection (2), is immune from civil liability for the reliance upon and use of that information under this act.

(2) A person shall not intentionally disclose to any person any information that he or she knows was provided under this act, except as authorized under this act. Information provided under this act and information entered in NPLEx under this act is not subject to disclosure under the freedom of information act, 1976 PA 442, MCL 15.231 to 15.246.

(3) A person who discloses information in violation of subsection (2) is guilty of a misdemeanor punishable by imprisonment for not more than 90 days or a fine of not more than $500.00, or both.

History: 2014, Act 276, Eff. Jan. 1, 2015

A.F.I.S. POLICY COUNCIL ACT

Act 307 of 1988

28.151-28.158 Repealed. 2005, Act 308, Eff. Feb. 1, 2006.

EXECUTIVE REORGANIZATION ORDER

E.R.O. No. 1998-1

28.161 Creation of criminal justice information systems (CJIS) policy council; transfer of powers and duties of automated fingerprint identification system (AFIS) policy council to CJIS policy council and abolition of AFIS policy council; transfer of powers and duties of law enforcement information network (LEIN) policy council to CJIS policy council and abolition of LEIN policy council.

WHEREAS, Article V, Section 2, of the Constitution of the State of Michigan of 1963 empowers the Governor to make changes in the organization of the Executive Branch or in the assignment of functions among its units which he considers necessary for efficient administration; and

WHEREAS, the Law Enforcement Information Network (L.E.I.N.) Policy Council was established pursuant to Act No. 163 of the Public Acts of 1974 to create policy and promulgate rules regarding the operational procedures to be followed by agencies using the law enforcement information network, to review applications for network terminals and approve or disapprove the applications and the sites for terminal installations and to establish minimum standards for terminal sites and installations; and

WHEREAS, the Automated Fingerprint Identification System (A.F.I.S.) Policy Council was established pursuant to Act No. 307 of the Public Acts of 1988 to, among other things, create policy and promulgate rules regarding the operation and audit procedures to be followed by agencies using the A.F.I.S., to design and provide for statewide identification of individuals using an A.F.I.S., to establish minimum standards for A.F.I.S. sites and installation, to review proposed applications for the A.F.I.S. and approve or disapprove the applications and the sites for system installations and to establish policy and promulgate rules restricting the dissemination of identification information to individuals and agencies; and

WHEREAS, the membership of the L.E.I.N. Policy Council is fully represented on the A.F.I.S. Policy Council; and

WHEREAS, the mission and goals of the L.E.I.N. Policy Council and the A.F.I.S. Policy Council are similar and the technologies and system interaction involved with both L.E.I.N. and A.F.I.S. are closely linked; and

WHEREAS, the functions, duties and responsibilities assigned to the L.E.I.N. Policy Council and the A.F.I.S. Policy Council can be more effectively organized and carried out under the supervision and direction of one governmental body; and

WHEREAS, it is necessary in the interests of efficient administration and effectiveness of government to effect changes in the organization of the Executive Branch of government.

NOW, THEREFORE, I, John Engler, Governor of the State of Michigan, pursuant to the powers vested in me by the Constitution of the State of Michigan of 1963 and the laws of the State of Michigan, do hereby order the following:

1. There is created the Criminal Justice Information Systems (CJIS) Policy Council within the Department of State Police. The council shall exercise its prescribed powers, duties, functions and responsibilities independently of the director of the department. The budgeting, procurement and related management functions of the council shall be performed under the direction and supervision of the director of the department.

2. The CJIS Policy Council shall consist of the following members:

a. The Attorney General or his or her designee;

b. The Secretary of State or his or her designee;

c. The Director of the Department of State Police or his or her designee;

d. The Director of the Department of Corrections or his or her designee;

e. Three representatives of the Department of State Police to be appointed by the Director of the Department of State Police;

f. The Chief of Detroit Police Department or his or her designee;

g. Three representatives of the Michigan Association of Chiefs of Police to be appointed by that association;

h. Four representatives of the Michigan Sheriff's Association to be appointed by that association;

i. Three representatives of the Prosecuting Attorneys Association of Michigan to be appointed by that association;

j. A representative of the Michigan District Judges Association to be appointed by that association;

k. A representative of the Michigan Judges Association to be appointed by that association;

l. The State Court Administrator or his or her designee;

m. An individual employed in or engaged in the business of private security, who shall be appointed by and serve at the pleasure of the Governor;

n. An individual who represents human services concerns in the state, who shall be appointed by and serve at the

pleasure of the Governor; and

o. The executive secretary of the CJIS Policy Council, who shall serve in an ex officio capacity.

3. The Council shall, at its first meeting, elect from its membership a chairperson who shall serve for one year. Elections thereafter shall be held annually. A chairperson may, if reelected, succeed himself or herself. The council shall meet quarterly, during the months of January, April, July and October, and at other times the chairperson considers necessary. A majority of the council members hall constitute a quorum for conducting the business of the council.

4. The council chairperson shall appoint committee chairpersons with the approval of the council. A committee chairperson may succeed himself or herself if reappointed.

5. Council members or their representatives shall serve without compensation, but shall be entitled to actual expenses incurred during attendance at a regular or special council meeting and in traveling to and from a meeting.

6. A council member shall serve a two (2) year term and may succeed himself or herself if reappointed as a member.

7. All the statutory authority, powers, duties, functions and responsibilities, including the functions of rulemaking, budgeting, procurement and related management functions of the A.F.I.S. Policy Council set forth in Act No. 307 of the Public Acts of 1988, as amended, being Sections 28.151 et seq. of the Michigan Compiled Laws, are hereby transferred to the CJIS Policy Council by a Type III transfer, as defined by Section 3 of Act No. 380 of the Public Acts of 1965, as amended, being Section 16.103 of the Michigan Compiled Laws, and the A.F.I.S. Policy Council is abolished.

8. In addition to the aforementioned responsibilities, the CJIS Policy Council shall serve in an advisory capacity to the Director of the Department of State Police on issues related to the development and deploymnet of information management systems that facilitate the rapid exchange of accurate information between the various components of the criminal justice community.

9. All the statutory authority, powers, duties, functions and responsibilities, including the functions of rulemaking, budgeting, procurement and related management functions of the L.E.I.N. Policy Council set forth in Act No. 163 of the Public Acts of 1974, as amended, being Sections 28.211 et seq. of the Michigan Compiled Laws, are hereby transferred to the CJIS Policy Council by a Type III transfer, as defined by Section 3 of Act No. 380 of the Public Acts of 1965, as amended, being Section 16.103 of the Michigan Compiled Laws, and the L.E.I.N. Policy Council is abolished.

10. The Director of the Department of State Police shall provide executive direction and supervision for the implementation of the transfers and shall make internal organizational changes that may be administratively necessary to complete the realignment of responsibilities prescribed by this Order.

11. All records, personnel, property and unexpended balances of appropriations, allocations and other funds used, held, employed, available or to be made available to the A.F.I.S. Policy Council or the L.E.I.N. Policy Council are hereby transferred to the CJIS Policy Council.

12. The Department of Management and Budget shall determine and authorize the most efficient manner possible for handling financial transactions and records in the state's financial management system for the remainder of this fiscal year.

13. All rules, orders, contracts and agreements relating to the assigned functions lawfully adopted prior to the effective date of this Order shall continue to be effective until revised, amended or repealed.

14. Any suit, action or other proceeding lawfully commenced by, against or before any entity affected by this Order shall not abate by reason of the taking effect of this Order. Any suit, action or other proceeding may be maintained by, against or before the appropriate successor of any entity affected by this Order.

In fulfillment of the requirement of Article V, Section 2, of the Constitution of the State of Michigan of 1963, the provisions of this Order shall become effective sixty (60) days after filing.

History: 1998, E.R.O. No. 1998-1, Eff. Apr. 13, 1998

Compiler's Notes: In the paragraph numbered "3.", the phrase "members hall constitute a quorum" evidently should read "members shall constitute a quorum."In the paragraph numbered "8.", the word "deploymnet" evidently should read "deployment."

EXECUTIVE REORGANIZATION ORDER

E.R.O. No. 2008-2

28.162 Transfer of powers and duties of criminal justice information systems policy council to department of state police by type III transfer; abolishment of criminal justice information systems policy council.

WHEREAS, Section 1 of Article V of the Michigan Constitution of 1963 vests the executive power of the State of Michigan in the Governor;

WHEREAS, Section 2 of Article V of the Michigan Constitution of 1963 empowers the Governor to make changes in the organization of the executive branch of state government or in the assignment of functions among its units that the Governor considers necessary for efficient administration;

WHEREAS, there is a continuing need to reorganize state functions to assure efficient administration and effectiveness of government;

WHEREAS, abolishing the Criminal Justice Information Systems Policy Council will reduce governmental functions and contribute to a smaller and more efficient state government;

NOW, THEREFORE, I, Jennifer M. Granholm, Governor of the State of Michigan, by virtue of the power and authority vested in the Governor by the Michigan Constitution of 1963 and Michigan law order:

I. DEFINITIONS

As used in this Order:

A. "Criminal Justice Information Systems Policy Council" or "Council" means the council established within the Department of State Police under Executive Order 1998-1, MCL 28.161, and Section 2 of the C.J.I.S. Policy Council Act, 1974 PA 163, MCL 28.211 to 28.215.

B. "Department of State Police" or "Department" means the principal department of state government created under Section 2 of 1935 PA 59, MCL 28.2, and Section 150 of the Executive Organization Act of 1965, 1965 PA 380, MCL 16.250.

C. "State Budget Director" means the individual appointed by the Governor pursuant to Section 321 of The Management and Budget Act, 1984 PA 431, MCL 18.1321.

D. "Type III transfer" means that term as defined under Section 3 of the Executive Organization Act of 1965, 1965 PA 380, MCL 16.103.

II. TRANSFER

A. All of the authority, powers, duties, functions, records, personnel, property, unexpended balances of appropriations, allocations, or other funds of the Criminal Justice Information Systems Policy Council are transferred by Type III transfer to the Department of State Police.

B. The Criminal Justice Information Systems Policy Council is abolished.

III. IMPLEMENTATION OF TRANSFER

A. The Director of the Department shall provide executive direction and supervision for the implementation of the transfer under this Order and shall make internal organizational changes as necessary to complete the transfer.

B. The functions transferred under this Order shall be administered by the Director of the Department in a manner that promotes efficient administration.

C. All records, property, and unexpended balances of appropriations, allocations, and other funds used, held, employed, available, or to be made available to the Council for the activities, powers, duties, functions, and responsibilities transferred under this Order are transferred to the Department.

D. The State Budget Director shall determine and authorize the most efficient manner possible for handling financial transactions and records in the state’s financial management system necessary for the implementation of this Order.

IV. MISCELLANEOUS

A. All rules, orders, contracts, and agreements relating to the functions transferred under this Order lawfully adopted prior to the effective date of this Order shall continue to be effective until revised, amended, repealed, or rescinded.

B. This Order shall not abate any suit, action, or other proceeding lawfully commenced by, against, or before any entity affected under this Order. Any suit, action, or other proceeding may be maintained by, against, or before the appropriate successor of any entity affected under this Order.

C. The invalidity of any portion of this Order shall not affect the validity of the remainder of the Order, which may be given effect without any invalid portion. Any portion of this Order found invalid by a court or other entity with proper jurisdiction shall be severable from the remaining portions of this Order.

In fulfillment of the requirements under Section 2 of Article V of the Michigan Constitution of 1963, the provisions of this Order are effective September 21, 2008 at 12:01 a.m.

History: 2008, E.R.O. No. 2008-2, Eff. Sept. 21, 2008

DNA IDENTIFICATION PROFILING SYSTEM ACT

Act 250 of 1990

AN ACT to provide for a DNA identification profiling system; to provide for the collection of samples from individuals arrested for committing or attempting to commit a felony offense or an offense that would be a felony if committed by an adult, certain prisoners, convicted offenders, and juvenile offenders and the analysis of those samples; to provide for retention, disposal, and expunction of samples and profiles under certain circumstances; and to prescribe the powers and duties of certain state departments and county agencies.

History: 1990, Act 250, Eff. June 17, 1994 ;-- Am. 1996, Act 508, Imd. Eff. Jan. 9, 1997 ;-- Am. 1998, Act 522, Imd. Eff. Jan. 12, 1999 ;-- Am. 2014, Act 457, Eff. July 1, 2015

The People of the State of Michigan enact:

28.171 Short title.

Sec. 1.

This act shall be known and may be cited as the "DNA identification profiling system act".

History: 1990, Act 250, Eff. June 17, 1994

28.172 Definitions.

Sec. 2.

As used in this act:

(a) "Conviction" means a plea of guilty, guilty but mentally ill, or nolo contendere if accepted by the court, or a jury verdict or court finding that a defendant is guilty or guilty but mentally ill for a criminal law violation, or a juvenile adjudication or disposition for a criminal law violation that if committed by an adult would be a crime.

(b) "Department" means the department of state police.

(c) "DNA identification profile" or "profile" means the results of the DNA identification profiling of a sample, including a paper, electronic, or digital record.

(d) "DNA identification profiling" means a validated scientific method of analyzing components of deoxyribonucleic acid molecules in a biological specimen to determine a match or a nonmatch between a reference sample and an evidentiary sample.

(e) "Felony" means a violation of a penal law of this state for which the offender may be punished by imprisonment for more than 1 year or an offense expressly designated by law to be a felony.

(f) "Investigating law enforcement agency" means the law enforcement agency responsible for the investigation of the offense for which the individual is arrested or convicted. Investigating law enforcement agency includes the county sheriff but does not include a probation officer employed by the department of corrections.

(g) "Sample" means a portion of an individual's blood, saliva, or tissue collected from the individual.

History: 1990, Act 250, Eff. June 17, 1994 ;-- Am. 1996, Act 508, Imd. Eff. Jan. 9, 1997 ;-- Am. 2001, Act 88, Eff. Jan. 1, 2002 ;-- Am. 2008, Act 535, Imd. Eff. Jan. 13, 2009 ;-- Am. 2014, Act 457, Eff. July 1, 2015

28.173 Rules.

Sec. 3.

The department shall promulgate rules under the administrative procedures act of 1969, 1969 PA 306, MCL 24.201 to 24.328, to implement this act, including, but not limited to, rules governing all of the following:

(a) The method of collecting samples in a medically approved manner by qualified persons and the types and number of samples to be collected by the following:

(i) The department of corrections from certain prisoners under section 33d of the corrections code of 1953, 1953 PA 232, MCL 791.233d.

(ii) Law enforcement agencies as provided under section 520m of the Michigan penal code, 1931 PA 328, MCL 750.520m, or certain juveniles under section 18k of chapter XIIA of the probate code of 1939, 1939 PA 288, MCL 712A.18k.

(iii) The department of human services or a county juvenile agency, as applicable, from certain juveniles under section 7a of the youth rehabilitation services act, 1974 PA 150, MCL 803.307a, or section 5a of the juvenile facilities act, 1988 PA 73, MCL 803.225a. As used in this subparagraph, "county juvenile agency" means that term as defined in section 2 of the county juvenile agency act, 1998 PA 518, MCL 45.622.

(b) Distributing DNA database collection kits and instructions for collecting samples.

(c) Storing and transmitting to the department the samples described in subdivision (a).

(d) The DNA identification or genetic marker profiling of samples described in subdivision (a).

(e) The development, in cooperation with the federal bureau of investigation and other appropriate persons, of a system of filing, cataloging, retrieving, and comparing DNA identification profiles and computerizing this system.

(f) Protecting the privacy interests of individuals whose samples are analyzed under this act.

History: 1990, Act 250, Eff. Sept. 1, 1994 ;-- Am. 1994, Act 166, Imd. Eff. June 17, 1994 ;-- Am. 1996, Act 508, Imd. Eff. Jan. 9, 1997 ;-- Am. 1998, Act 522, Imd. Eff. Jan. 12, 1999 ;-- Am. 2014, Act 457, Eff. July 1, 2015
Admin Rule: R 28.5051 et seq. of the Michigan Administrative Code.

28.173a DNA identification profiling; refusal to supply samples as misdemeanor; existing sample; inadequate sample.

Sec. 3a.

(1) An individual required by law to provide samples for DNA identification profiling who refuses to provide or resists providing those samples is guilty of a misdemeanor punishable by imprisonment for not more than 1 year or a fine of not more than $1,000.00, or both. The individual shall be advised that his or her resistance or refusal to provide samples described in this subsection is a misdemeanor.

(2) If at the time an individual who is required by law to provide samples for DNA identification profiling is arrested for committing or attempting to commit a felony offense or is convicted or found responsible the investigating law enforcement agency or the department already has a sample from the individual that meets the requirements of the rules promulgated under this act, the individual is not required to provide another sample. However, if an individual's DNA sample is inadequate for purposes of analysis, the individual shall provide another DNA sample that is adequate for analysis.

History: Add. 2001, Act 88, Eff. Jan. 1, 2002 ;-- Am. 2008, Act 533, Imd. Eff. Jan. 13, 2009 ;-- Am. 2014, Act 457, Eff. July 1, 2015

28.174 Developing capability of conducting DNA identification and genetic marker profiling.

Sec. 4.

The department of state police shall work with the federal bureau of investigation and other appropriate persons to develop the capability of conducting DNA identification and genetic marker profiling at department of state police crime laboratories. For this purpose, the department shall acquire, adapt, or construct the appropriate facilities, acquire the necessary equipment and supplies, evaluate and select analytic techniques and validate the chosen techniques, and obtain training for department of state police personnel.

History: 1990, Act 250, Eff. June 17, 1994

28.175 DNA profile or sample; unauthorized dissemination, receipt, or use of information; removal, destruction, or tampering; obtaining, testing, or destroying; violation; penalty.

Sec. 5.

(1) An individual shall not disseminate, receive, or otherwise use or attempt to use information in the DNA identification profile record knowing that the dissemination, receipt, or use of that information is for a purpose not authorized by law.

(2) An individual shall not willfully remove, destroy, tamper with, or attempt to tamper with a DNA sample, record, or other DNA information obtained or retained under this act without lawful authority.

(3) An individual shall not, without proper authority, obtain a DNA identification profile from the DNA identification profiling system.

(4) An individual shall not, without proper authority, test a DNA sample obtained under this act.

(5) An individual shall not willfully fail to destroy a DNA sample or profile that has been required or ordered to be destroyed under this act.

(6) Nothing in this section shall be considered to prohibit the collection of a DNA sample in the course of a criminal investigation by a law enforcement agency.

(7) An individual who violates this section is guilty of a misdemeanor punishable by imprisonment for not more than 1 year or a fine of not more than $1,000.00, or both.

History: Add. 2008, Act 535, Imd. Eff. Jan. 13, 2009 ;-- Am. 2014, Act 457, Eff. July 1, 2015
Compiler's Notes: Former MCL 28.175, which pertained to appointment, composition, and duties of DNA advisory committee, was repealed by Act 508 of 1996, Imd. Eff. Jan. 9, 1997.

28.175a DNA profiles; authorized use; analyses for identification of medical or genetic disorder prohibited.

Sec. 5a.

(1) The department shall only use the DNA profiles of DNA samples authorized to be provided under this act for 1 or more of the following purposes:

(a) Law enforcement identification purposes.

(b) To assist in the recovery or identification of human remains or missing persons.

(c) Academic, research, statistical analysis, or protocol development purposes only if personal identifiers are removed.

(2) DNA samples provided under this act shall not be analyzed for identification of any medical or genetic disorder.

History: Add. 2008, Act 534, Imd. Eff. Jan. 13, 2009

28.176 DNA identification profile; retention; requirements; disposal of sample or profile; good-faith error; disposal of physical evidence or data obtained from sample; notice.

Sec. 6.

(1) Except as otherwise provided in this section, the department shall permanently retain a DNA identification profile of an individual obtained from a sample in the manner prescribed by the department under this act if any of the following apply:

(a) The individual is arrested for committing or attempting to commit a felony offense or an offense that would

be a felony offense if committed by an adult.

(b) The individual is convicted of or found responsible for a felony or attempted felony, or any of the following misdemeanors, or local ordinances that are substantially corresponding to the following misdemeanors:

(i) A violation of section 167(1)(c), (f), or (i) of the Michigan penal code, 1931 PA 328, MCL 750.167, disorderly person by window peeping, engaging in indecent or obscene conduct in public, or loitering in a house of ill fame or prostitution.

(ii) A violation of section 335a(1) of the Michigan penal code, 1931 PA 328, MCL 750.335a, indecent exposure.

(iii) A violation punishable under section 451(1) or (2) of the Michigan penal code, 1931 PA 328, MCL 750.451, first and second prostitution violations.

(iv) A violation of section 454 of the Michigan penal code, 1931 PA 328, MCL 750.454, leasing a house for purposes of prostitution.

(2) The DNA identification profiles of DNA samples received under this act must only be disclosed as follows:

(a) To a criminal justice agency for law enforcement identification purposes.

(b) In a judicial proceeding as authorized or required by a court.

(c) To a defendant in a criminal case if the DNA identification profile is used in conjunction with a charge against the defendant.

(d) For an academic, research, statistical analysis, or protocol developmental purpose only if personal identifications are removed.

(3) Notwithstanding subsection (1), if at the time the individual is arrested, convicted of, or found responsible for the violation the investigating law enforcement agency or the department already has a sample from the individual that meets the requirements of this act, the individual is not required to provide another sample or pay the assessment required under subsection (5).

(4) The county sheriff or the investigating law enforcement agency as ordered by the court shall provide for collecting the samples required to be provided under subsection (1) in a medically approved manner by qualified persons using supplies provided by the department and shall forward those samples and any samples described in subsection (1) that were already in the agency's possession to the department after the individual from whom the sample was taken has been arraigned in the district court. However, the individual's DNA sample must not be forwarded to the department if the individual is not charged with committing or attempting to commit a felony offense or an offense that would be a felony if committed by an adult. If the individual's DNA sample is forwarded to the department despite the individual not having been charged as described in this subsection, the law enforcement agency shall notify the department to destroy that sample. The collecting and forwarding of samples must be done in the manner required under this act. A sample must be collected by the county sheriff or the investigating law enforcement agency after arrest but before sentencing or disposition as ordered by the court and promptly transmitted to the department of state police after the individual is charged with committing or attempting to commit a felony offense or an offense that would be a felony if committed by an adult. This subsection does not preclude a law enforcement agency or state agency from obtaining a sample at or after sentencing or disposition. At the time a DNA sample is taken from an individual under this section, the individual must be notified in writing of all of the following:

(a) That, except as otherwise provided by law, the individual's DNA sample or DNA identification profile, or both, must be destroyed or expunged, as appropriate, if the charge for which the sample was obtained has been dismissed or resulted in acquittal, or no charge was filed within the limitations period.

(b) That the individual's DNA sample or DNA identification profile, or both, will not be destroyed or expunged, as appropriate, if the department determines that the individual from whom the sample is taken is otherwise obligated to submit a sample or if it is evidence relating to another individual that would otherwise be retained under this section.

(c) That the burden is on the arresting law enforcement agency and the prosecution to request the destruction or expunction of a DNA sample or DNA identification profile as required under this section, not on the individual.

(5) The court shall order each individual found responsible for or convicted of 1 or more crimes listed in subsection (1) to pay an assessment of $60.00. The assessment required under this subsection is in addition to any fine, costs, or other assessments imposed by the court. This subsection does not apply to a juvenile, or a parent, guardian, or legal custodian of a juvenile, within the jurisdiction of the court under section 2 of chapter XIIA of the probate code of 1939, 1939 PA 288, MCL 712A.2.

(6) An assessment required under subsection (5) must be ordered on the record and must be listed separately in the adjudication order, judgment of sentence, or order of probation.

(7) After reviewing a verified petition by an individual against whom an assessment is imposed under subsection (5), the court may suspend payment of all or part of the assessment if it determines the individual is unable to pay the assessment.

(8) The court that imposes the assessment prescribed under subsection (5) may retain 10% of all assessments or portions of assessments collected for costs incurred under this section and shall transmit that money to its funding unit. On the last day of each month, the clerk of the court shall transmit the assessments or portions of assessments collected under this section as follows:

(a) Twenty-five percent to the county sheriff or other investigating law enforcement agency that collected the DNA sample as designated by the court to defray the costs of collecting DNA samples.

(b) Sixty-five percent to the state treasurer for deposit in the justice system fund created in section 181 of the revised judicature act of 1961, 1961 PA 236, MCL 600.181.

(9) If a sample was collected under subsection (1) from an individual who does not have more than 1 conviction, and that conviction was reversed by an appellate court, the sentencing court shall order the disposal of the sample collected and DNA identification profile record for that conviction in the manner provided in subsections (12) and (13).

(10) Any other DNA identification profile obtained by the department must not be permanently retained by the department but must be retained only as long as it is needed for a criminal investigation or criminal prosecution. Except as provided in subsection (11), the state police forensic laboratory shall dispose of a DNA sample collected under subsection (1) or a DNA identification profile, or both, if any of the following circumstances occur:

(a) The department receives a written request for disposal from the investigating police agency or prosecutor indicating that the sample or profile is no longer necessary for a criminal investigation or criminal prosecution.

(b) The department receives a written request for disposal and a certified copy of a final court order establishing that the charge for which the sample was obtained has been dismissed or has resulted in an acquittal or that no charge was filed within the applicable limitations period.

(11) Subsection (10) does not apply if either of the following circumstances exists:

(a) The department determines that the individual from whom the sample is taken has otherwise become obligated to submit a sample.

(b) Subsection (15) applies.

(12) The state police forensic laboratory shall dispose of a sample and a DNA identification profile record in the following manner:

(a) Not more than 60 days after the department receives notice under subsection (10), the laboratory shall dispose of the sample in compliance with section 13811 of the public health code, 1978 PA 368, MCL 333.13811.

(b) The laboratory shall dispose of the sample and the DNA identification profile record in the presence of a witness.

(13) After disposal in accordance with subsection (12), the laboratory shall make and keep a written record of the disposal, signed by the individual who witnessed the disposal.

(14) An identification, warrant, detention, probable cause to arrest, arrest, or conviction based upon a DNA match or DNA information is not invalidated if it is later determined that 1 or more of the following errors occurred in good faith:

(a) A DNA sample was erroneously obtained.

(b) A DNA identification profile was erroneously retained.

(c) A DNA sample was not disposed of or there was a delay in disposing of the sample.

(d) A DNA identification profile was not disposed of or there was a delay in disposing of the profile.

(15) Notwithstanding any other provision of this act, the department is not required to dispose of physical evidence or data obtained from a sample if evidence relating to an individual other than the individual from whom the sample was taken would be destroyed and the evidence or data relating to the other individual would otherwise be retained under this section.

(16) The department shall send written notice to the requesting law enforcement agency, court, or prosecutor when the individual's DNA sample or DNA identification profile has been destroyed under this act.

History: 1990, Act 250, Eff. Sept. 1, 1994 ;-- Am. 1996, Act 508, Imd. Eff. Jan. 9, 1997 ;-- Am. 2000, Act 30, Imd. Eff. Mar. 15, 2000 ;-- Am. 2001, Act 87, Eff. Jan. 1, 2002 ;-- Am. 2003, Act 76, Eff. Oct. 1, 2003 ;-- Am. 2008, Act 535, Imd. Eff. Jan. 13, 2009 ;-- Am. 2014, Act 457, Eff. July 1, 2015 ;-- Am. 2018, Act 310, Imd. Eff. June 29, 2018 ;-- Am. 2023, Act 302, Eff. Oct. 1, 2024

28.177, 28.178 Repealed. 1994, Act 166, Imd. Eff. June 17, 1994.

Compiler's Notes: The repealed sections pertained to conditional effective dates.

METHAMPHETAMINE REPORTING ACT

Act 262 of 2006

AN ACT to create the methamphetamine reporting act; to prescribe the powers and duties of certain state and local departments and agencies; to require certain reports by certain persons; and to prohibit the disclosure of certain information under certain circumstances.

History: 2006, Act 262, Eff. Oct. 1, 2006

The People of the State of Michigan enact:

28.191 Short title.

Sec. 1.

This act shall be known and may be cited as the "methamphetamine reporting act".

History: 2006, Act 262, Eff. Oct. 1, 2006

28.192 Methamphetamine; manufacture, use, possession, and distribution; compilation of information; entities providing information; procedures to prevent duplication; manner of reporting; disclosure; confidentiality.

Sec. 2.

(1) The department shall compile information regarding methamphetamine manufacture, use, possession, and distribution in this state, as provided under this act.

(2) The department shall obtain information for purposes of subsection (1) from all of the following:

(a) The department.

(b) The departments of community health, human services, natural resources, environmental quality, and corrections.

(c) Each local police agency in this state. As used in this subdivision, "local police agency" means all of the following:

(i) The police department of a city, village, or township.

(ii) The county sheriff.

(iii) The police department or public safety department of a hospital, community college, college, or university.

(3) The department shall provide, and shall require each entity described in subsection (2) to provide to the department, information regarding all of the following, as applicable:

(a) The name and address of the reporting entity.

(b) Whether the incident involved primarily the manufacture, possession, use, or distribution of methamphetamine.

(c) The city, village, or township and the county in which the incident occurred.

(d) Whether an individual less than 18 years of age was present at the scene when the incident took place.

(4) The department shall implement procedures to ensure that information provided by the entities described in subsection (2) is coordinated to prevent duplicative information from being obtained.

(5) Each agency described in subsection (2) shall report the information required under subsection (3) to the department in the manner required by the department.

(6) This section does not require or authorize the disclosure of information that is privileged or otherwise restricted by law.

(7) Except as provided in section 4, information submitted to the department under this act by a state or local department or agency is confidential and is not subject to disclosure under the freedom of information act, 1976 PA 442, MCL 15.231 to 15.246.

History: 2006, Act 262, Eff. Oct. 1, 2006
Compiler's Notes: For transfer of powers and duties of department of natural resources to department of natural resources and environment, and abolishment of department of natural resources, see E.R.O. No. 2009-31, compiled at MCL 324.99919.

28.193 Report to legislature; availability to public.

Sec. 3.

(1) The department shall file a written report not later than April 1 of each year with the secretary of the senate and the clerk of the house of representatives using the information obtained under section 2 identifying trends in methamphetamine manufacture, use, and distribution in this state and making recommendations to the legislature regarding possible solutions to those problems.

(2) The department shall make a copy of the report filed under subsection (1) available to the public on the department's website.

History: 2006, Act 262, Eff. Oct. 1, 2006

28.194 Information to be provided to federal department.

Sec. 4.

The department shall provide information obtained under this act to the United States department of justice or an entity designated by the United States department of justice for receiving that information, in the manner required by the United States department of justice or that entity, for the purpose of obtaining federal funds.

History: 2006, Act 262, Eff. Oct. 1, 2006

28.195 Rules.

Sec. 5.

The department may promulgate rules under the administrative procedures act of 1969, 1969 PA 306, MCL 24.201 to 24.328, to implement this act.

History: 2006, Act 262, Eff. Oct. 1, 2006

28.196 "Department" defined.

Sec. 6.

As used in this act, "department" means the department of state police.

History: 2006, Act 262, Eff. Oct. 1, 2006

CERTIFIED REPRODUCTIONS OF STATE POLICE RECORDS

Act 79 of 1939

AN ACT to authorize the use and declare the effect of certified reproductions of the records and papers, and certification of no records and papers, in the files of the department of state police in judicial and other proceedings.

History: 1939, Act 79, Eff. Sept. 29, 1939 ;-- Am. 1941, Act 42, Eff. Jan. 10, 1942 ;-- Am. 1992, Act 194, Imd. Eff. Oct. 5, 1992

The People of the State of Michigan enact:

28.201 Certified reproductions of state police records admissible as evidence.

Sec. 1.

A reproduction of a record or paper in the files of the department of state police, made in a medium pursuant to the records media act, or a reproduction consisting of a printout or other output readable by sight from such a medium, certified as a true reproduction by the director of the department of state police, is admissible as evidence in all cases equally and with like effect as the original. A statement, similarly certified as true by the director of the department of state police, that no record or paper is in the files of the department of state police with respect to a particular matter is admissible as evidence in all cases equally and with like effect as testimony to that effect by a member or employee of the department of state police.

History: 1939, Act 79, Eff. Sept. 29, 1939 ;-- Am. 1941, Act 42, Eff. Jan. 10, 1942 ;-- CL 1948, 28.201 ;-- Am. 1992, Act 194, Imd. Eff. Oct. 5, 1992

28.202 Construction of act.

Sec. 2.

This act shall be construed to supplement the law of this state with respect to evidence and its admissibility.

History: 1939, Act 79, Eff. Sept. 29, 1939 ;-- CL 1948, 28.202

C.J.I.S. POLICY COUNCIL ACT

Act 163 of 1974

AN ACT to provide for the creation of a criminal justice information systems policy council; to provide for the establishment of policy and promulgation of rules governing access, use, and disclosure of information in criminal justice information systems; to provide for the reimbursement of expenses of council members; and to provide for penalties.

History: 1974, Act 163, Eff. Apr. 1, 1975 ;-- Am. 2005, Act 309, Eff. Feb. 1, 2006

The People of the State of Michigan enact:

28.211 Short title.

Sec. 1.

This act shall be known and may be cited as the "C.J.I.S. policy council act".

History: 1974, Act 163, Eff. Apr. 1, 1975 ;-- Am. 2005, Act 309, Eff. Feb. 1, 2006

28.211a Definitions.

Sec. 1a.

As used in this act:
(a) "Council" means the criminal justice information policy council created in section 2.
(b) "Nonpublic information" means information to which access, use, or dissemination is restricted by a law or rule of this state or the United States.

History: Add. 2005, Act 309, Eff. Feb. 1, 2006

28.212 Criminal justice information policy council; creation; membership; terms.

Sec. 2.

(1) The criminal justice information policy council is created in the department of state police. The council is composed of the following members:
(a) The attorney general or his or her designee.
(b) The secretary of state or his or her designee.
(c) The director of the department of corrections or his or her designee.
(d) The chief of the Detroit police department or his or her designee.
(e) The director of the department of state police or his or her designee.
(f) Three representatives of the department of state police appointed by the director of the department of state police.
(g) Three representatives of the Michigan association of chiefs of police appointed by that association.
(h) Four representatives of the Michigan sheriffs' association appointed by that association.
(i) Three representatives of the prosecuting attorneys association of Michigan appointed by that association.
(j) A representative of the Michigan district judges association appointed by that association.
(k) A representative of the Michigan judges association appointed by that association.
(l) The state court administrator or his or her designee.
(m) An individual appointed by and serving at the pleasure of the governor who is employed in or engaged in the private security business.
(n) An individual appointed by and serving at the pleasure of the governor who represents human services concerns in this state.
(o) The director of the department of information technology or his or her designee.
(2) The appointed members of the council shall serve 2-year terms and may be reappointed.

History: 1974, Act 163, Eff. Apr. 1, 1975 ;-- Am. 2005, Act 309, Eff. Feb. 1, 2006

28.213 Council; chairperson; election; meeting; compensation; quorum.

Sec. 3.

(1) The council, at its first meeting, shall elect from its membership a chairperson, who shall serve for 1 year. An election for chairperson shall be held annually. A chairperson, if reelected, may succeed himself or herself. The council shall meet quarterly during the months of January, April, July, and October or more frequently at the call of the chairperson.

(2) Council members shall serve without compensation, but are entitled to actual expenses incurred during attendance at a regular or special council meeting and in traveling to and from a meeting.

(3) A majority of council members constitute a quorum for conducting the business of the council.

History: 1974, Act 163, Eff. Apr. 1, 1975 ;-- Am. 2005, Act 309, Eff. Feb. 1, 2006

28.213a Council; powers, duties, functions, and responsibilities.

Sec. 3a.

(1) The council shall exercise its prescribed powers, duties, functions, and responsibilities independently of the director of the department of state police. The budgeting, procurement, and related management functions of the council shall be performed under the direction and supervision of the director of the department of state police.

(2) The executive secretary of the council shall be appointed by the director of the department of state police subject to the approval of the council.

History: Add. 2005, Act 309, Eff. Feb. 1, 2006

28.214 Council; duties; fingerprints; disclosure of information; violation; penalty.

Sec. 4.

(1) The council shall do all of the following:

(a) Establish policy and promulgate rules governing access, use, and disclosure of information in criminal justice information systems, including the law enforcement information network, the automated fingerprint information system, and other information systems related to criminal justice or law enforcement. The policy and rules must do all of the following:

(i) Ensure access to information obtained by a federal, state, or local governmental agency to administer criminal justice or enforce any law.

(ii) Ensure access to information provided by the law enforcement information network or the automated fingerprint identification system by a governmental agency engaged in the enforcement of child support laws, child protection laws, or vulnerable adult protection laws.

(iii) Ensure access by the department of health and human services to information necessary to implement section 10c of the social welfare act, 1939 PA 280, MCL 400.10c.

(iv) Authorize a fire chief of an organized fire department or his or her designee to request and receive information obtained through the law enforcement information network by a law enforcement agency for the following purposes:

(A) A preemployment criminal convictions history.

(B) A preemployment driving record.

(C) Vehicle registration information for vehicles involved in a fire or hazardous materials incident.

(v) Authorize a public or private school superintendent, principal, or assistant principal to receive vehicle registration information, of a vehicle within 1,000 feet of school property, obtained through the law enforcement information network by a law enforcement agency.

(vi) Establish fees for access, use, or dissemination of information from criminal justice information systems.

(b) Review applications for C.J.I.S. access and approve or disapprove the applications and the sites. If an application is disapproved, the applicant must be notified in writing of the reasons for disapproval.

(c) Establish minimum standards for equipment and software and its installation.

(d) Advise the governor on issues concerning the criminal justice information systems.

(e) Establish policy and promulgate rules concerning the expunction, destruction, or both, of information and data in criminal justice information systems, including the law enforcement information network, the automated fingerprint information system, and other information systems related to criminal justice or law enforcement, as required under section 26a of chapter IV of the code of criminal procedure, 1927 PA 175, MCL 764.26a.

(2) A person having direct access to nonpublic information in the information systems governed by this act shall submit a set of fingerprints for comparison with state and federal criminal history records to be approved for access under the C.J.I.S. security policy. A report of the comparison must be provided to that person's employer.

(3) A person shall not access, use, or disclose nonpublic information governed under this act for personal use or gain.

(4) The attorney general or his or her designee, a prosecuting attorney, or the court, in a criminal case, may disclose to the defendant or the defendant's attorney of record information pertaining to that defendant that was obtained from the law enforcement information system.

(5) A person shall not disclose information governed under this act in a manner that is not authorized by law or rule.

(6) A person who intentionally violates subsection (3) or (5) is guilty of a crime as follows:

(a) For a first offense, the person is guilty of a misdemeanor punishable by imprisonment for not more than 93 days or a fine of not more than $500.00, or both.

(b) For a second or subsequent offense, the person is guilty of a felony punishable by imprisonment for not more than 4 years or a fine of not more than $2,000.00, or both.

History: 1974, Act 163, Eff. Apr. 1, 1975 ;-- Am. 1998, Act 82, Eff. July 1, 1998 ;-- Am. 1998, Act 458, Imd. Eff. Jan. 4, 1999 ;-- Am. 1998, Act 459, Imd. Eff. Jan. 4, 1999 ;-- Am. 2000, Act 320, Imd. Eff. Oct. 25, 2000 ;-- Am. 2005, Act 308, Eff. Feb. 1, 2006 ;-- Am. 2005, Act 311, Eff. Feb. 1, 2006 ;-- Am. 2011, Act 199, Imd. Eff. Oct. 18, 2011 ;-- Am. 2018, Act 66, Eff. June 12, 2018
Admin Rule: R 28.5101 et seq. of the Michigan Administrative Code.

28.215 Access to information; powers of council.

Sec. 5.

The council may do any of the following:

(a) Authorize access to public record information to enhance public safety or criminal justice, as permitted by law.

(b) Suspend or deny the use of, and access to, information or remove access from an agency if the agency violates policies or promulgated rules of the council.

(c) Suspend or deny direct access to information to an individual who violates this act, policies, or promulgated rules of the council.

History: 1974, Act 163, Eff. Apr. 1, 1975 ;-- Am. 2005, Act 308, Eff. Feb. 1, 2006
Admin Rule: R 28.5101 et seq. of the Michigan Administrative Code.

28.216 Repealed. 2005, Act 308, Eff. Feb. 1, 2006.

Compiler's Notes: The repealed section pertained to purchase of hardware and software.

MICHIGAN TRAINING SCHOOL FOR PEACE OFFICERS

Act 211 of 1925

AN ACT to authorize the department of public safety to establish and conduct a training school to be known as the

Michigan training school for peace officers for the instruction of law enforcing officers.

History: 1925, Act 211, Eff. Aug. 27, 1925 ;-- Am. 1931, Act 322, Imd. Eff. June 16, 1931

The People of the State of Michigan enact:

28.221 Training school for peace officers; creation, location, subjects.

Sec. 1.

The department of public safety is hereby authorized to establish and conduct a school for the instruction of law enforcing officers of this state and of the several counties, townships, cities and villages thereof, such school to be known as the Michigan training school for peace officers and to be conducted and the sessions and periods thereof to be held at East Lansing and at such other places in the state as the commissioner of public safety shall designate. Provision shall be made for instruction in the following subjects and such others as the commissioner of public safety shall deem expedient.

(a) Identification of criminals and fingerprinting;
(b) Methods of crime investigation;
(c) Rules of criminal evidence;
(d) Presentation of cases in courts;
(e) Making of complaints and securing of criminal warrants;
(f) Securing and use of search warrants;
(g) Enforcement of general criminal laws;
(h) Small arms instruction;
(i) Regulation of traffic and uniformity in enforcement;
(j) First aid;
(k) Ethics of the police profession;
(l) Courtesy in performance of duty;
(m) Jui Jitsu;
(n) Extent of police authority;
(o) Confessions and statements.

History: 1925, Act 211, Eff. Aug. 27, 1925 ;-- CL 1929, 563 ;-- Am. 1931, Act 322, Imd. Eff. June 16, 1931 ;-- CL 1948, 28.221

28.222 Training school; instructors and students, expenses.

Sec. 2.

The commissioner of public safety shall appoint the instructor or instructors of such school and may call upon members of any state department or any instructor or professor in any state educational institution, to act as instructor or lecturer in such school, and may pay the reasonable expenses of such person while in attendance. The legislative body of any county, township, city or village may authorize the attendance at such school of any law enforcing officer under the jurisdiction of such county, township, city or village, and may provide for the payment of the expenses of such person while in attendance which payment shall be made out of the general fund of such county, township, city or village.

History: 1925, Act 211, Eff. Aug. 27, 1925 ;-- CL 1929, 564 ;-- Am. 1931, Act 322, Imd. Eff. June 16, 1931 ;-- CL 1948, 28.222

28.223 Training school; students, lodging.

Sec. 3.

The department of public safety may provide board and lodging for persons in attendance at such school, the cost thereof to be borne by the student or by the county, township, city or village authorizing his attendance at such school.

History: 1925, Act 211, Eff. Aug. 27, 1925 ;-- CL 1929, 565 ;-- CL 1948, 28.223

28.224 Training school; diplomas.

Sec. 4.

To each person satisfactorily completing the course of study prescribed, the commissioner of public safety shall issue a certificate of graduation or diploma stating that the holder has graduated from the Michigan training school for peace officers.

History: 1925, Act 211, Eff. Aug. 27, 1925 ;-- CL 1929, 566 ;-- Am. 1931, Act 322, Imd. Eff. June 16, 1931 ;-- CL 1948, 28.224

28.225 Training school; municipal police protection during operation of school.

Sec. 5.

The commissioner of public safety may upon the written request of the legislative body of any county, township, city or village sending officers to said school, for assistance during the absence of its regular officers while in attendance at said school, furnish members of the department of public safety, without expense to such county, township, city or village. Such members of the department of public safety, when so assigned, shall be under the direction and authority of the chief law enforcing officer of the county, township, city or village in which they are serving.

History: Add. 1931, Act 322, Imd. Eff. June 16, 1931 ;-- CL 1948, 28.225

BUREAU OF CRIMINAL IDENTIFICATION AND RECORDS

Act 289 of 1925

AN ACT to create and maintain a fingerprint identification and criminal history records division within the department of state police; to require peace officers, persons in charge of certain institutions, and others to make reports respecting juvenile offenses, crimes, and criminals to the state police; to require the fingerprinting of an accused by certain persons; and to provide penalties and remedies for a violation of this act.

History: 1925, Act 289, Imd. Eff. May 13, 1925 ;-- Am. 1931, Act 197, Imd. Eff. May 28, 1931 ;-- Am. 1986, Act 231, Eff. June 1, 1987 ;-- Am. 1988, Act 40, Eff. June 1, 1988 ;-- Am. 2001, Act 187, Eff. Apr. 1, 2002

The People of the State of Michigan enact:

28.241 Department of state police; responsibility for criminal and juvenile identification and records; apparatus and materials.

Sec. 1.

The department of state police is responsible for criminal and juvenile identification and records. The department shall be supplied with the necessary apparatus and materials for collecting, filing, and preserving criminal and juvenile records filed with the department.

History: 1925, Act 289, Imd. Eff. May 13, 1925 ;-- CL 1929, 567 ;-- Am. 1931, Act 197, Imd. Eff. May 28, 1931 ;-- CL 1948, 28.241 ;-- Am. 1986, Act 231, Eff. June 1, 1987 ;-- Am. 1988, Act 40, Eff. June 1, 1988 ;-- Am. 2001, Act 187, Eff. Apr. 1, 2002

28.241a Definitions.

Sec. 1a.

As used in this act:

(a) "Arrest card" means a paper form or an electronic format prescribed by the department that facilitates the collection and compilation of criminal and juvenile arrest history record information and biometric data.

(b) "Biometric data" means all of the following:

(i) Fingerprint images recorded in a manner prescribed by the department.

(ii) Palm print images, if the arresting law enforcement agency has the electronic capability to record palm print images in a manner prescribed by the department.

(iii) Digital images recorded during the arrest or booking process, including a full-face capture, left and right profile, and scars, marks, and tattoos, if the arresting law enforcement agency has the electronic capability to record the images in a manner prescribed by the department.

(iv) All descriptive data associated with identifying marks, scars, amputations, and tattoos.

(c) "Commanding officer" means the director of the department of state police or the director's designee.

(d) "Criminal history record information" means name; date of birth; personal descriptions including identifying marks, scars, amputations, and tattoos; aliases and prior names; social security number, driver's license number, and other identifying numbers; and information on misdemeanor arrests and convictions and felony arrests and convictions.

(e) "Department" means the department of state police.

(f) "Felony" means a violation of a penal law of this state for which the offender may be punished by imprisonment for more than 1 year or an offense expressly designated by law to be a felony.

(g) "Juvenile history record information" means name; date of birth; personal descriptions including identifying marks, scars, amputations, and tattoos; aliases and prior names; social security number, driver's license number, and other identifying numbers; and information on juvenile offense arrests and adjudications or convictions.

(h) "Juvenile offense" means an offense committed by a juvenile that, if committed by an adult, would be a felony, a criminal contempt conviction under section 2950 or 2950a of the revised judicature act of 1961, 1961 PA 236, MCL 600.2950 and 600.2950a, a criminal contempt conviction for a violation of a foreign protection order that satisfies the conditions for validity provided in section 2950i of the revised judicature act of 1961, 1961 PA 236, MCL 600.2950i, or a misdemeanor.

(i) "Law enforcement agency" means the police department of a city, township, or village, the sheriff's department of a county, the department, or any other governmental law enforcement agency of this state.

(j) "Misdemeanor" means either of the following:

(i) A violation of a penal law of this state that is not a felony or a violation of an order, rule, or regulation of a state agency that is punishable by imprisonment or a fine that is not a civil fine.

(ii) A violation of a local ordinance that substantially corresponds to state law and that is not a civil infraction.

History: Add. 1986, Act 231, Eff. June 1, 1987 ;-- Am. 1988, Act 40, Eff. June 1, 1988 ;-- Am. 1994, Act 196, Eff. Oct. 1, 1994 ;-- Am. 1996, Act 259, Eff. Jan. 1, 1997 ;-- Am. 2001, Act 187, Eff. Apr. 1, 2002 ;-- Am. 2012, Act 374, Imd. Eff. Dec. 14, 2012

28.242 Duties of commanding officer.

Sec. 2.

(1) The commanding officer shall procure and file for purposes of criminal identification criminal history record information on all persons arrested within this state of either a felony or a misdemeanor, or criminal contempt under section 2950 or 2950a of the revised judicature act of 1961, 1961 PA 236, MCL 600.2950 and 600.2950a, or criminal contempt for a violation of a foreign protection order that satisfies the conditions for validity provided in section 2950i of the revised judicature act of 1961, 1961 PA 236, MCL 600.2950i. The commanding officer shall procure and file for purposes of juvenile identification juvenile history record information on all juveniles who have been adjudicated to have committed a juvenile offense within this state.

(2) The commanding officer shall provide all reporting officials with forms or prescribe the format, numerical identifiers, and instructions which specify the information required, the time it is to be forwarded, the method of classifying, and other matters to facilitate criminal and juvenile history record information collection and compilation.

(3) The commanding officer shall file the biometric data and criminal history record information that are forwarded to the department of all persons confined in a prison or other state correctional facility.

(4) The commanding officer shall provide access to criminal history record information and juvenile history record information, as prescribed by the department and as authorized by law.

(5) A copy of an arrest card shall be forwarded to the federal bureau of investigation.

History: 1925, Act 289, Imd. Eff. May 13, 1925 ;-- CL 1929, 568 ;-- Am. 1931, Act 197, Imd. Eff. May 28, 1931 ;-- Am. 1937, Act 205, Eff. Oct. 29, 1937 ;-- CL 1948, 28.242 ;-- Am. 1978, Act 538, Imd. Eff. Dec. 22, 1978 ;-- Am. 1986, Act 231, Eff. June 1, 1987 ;-- Am. 1988, Act 40, Eff. June 1, 1988 ;-- Am. 2001, Act 187, Eff. Apr. 1, 2002 ;-- Am. 2001, Act 203, Eff. Oct. 1, 2002 ;-- Am. 2012, Act 374, Imd. Eff. Dec. 14, 2012

28.242a Dissemination of criminal history record information; exception.

Sec. 2a.

(1) All criminal history record information that is associated with a state identification number and is supported by biometric data shall be disseminated in response to either a fingerprint-based search or a name-based search of the criminal history record information database. This subsection does not allow the dissemination of criminal history record information that is nonpublic or is prohibited by law from being disseminated.

(2) Except as provided in subsection (3), all juvenile history record information that is associated with a state identification number and is supported by biometric data shall be disseminated in response only to a fingerprint-based search of the criminal history record information database. This subsection does not allow the dissemination of juvenile history record information that is nonpublic or is prohibited by law from being disseminated.

(3) All juvenile history record information that is associated with a state identification number and that is supported by biometric data shall be disseminated in response to either a name-based or a fingerprint-based search of the criminal history record information database solely to a person or entity authorized to access the law enforcement information network. This subsection does not allow the dissemination of juvenile history record information that is prohibited by law from being disseminated.

History: Add. 2005, Act 310, Eff. Feb. 1, 2006 ;-- Am. 2012, Act 374, Imd. Eff. Dec. 14, 2012 ;-- Am. 2013, Act 152, Imd. Eff. Nov. 5, 2013

28.243 Collecting and forwarding biometric data of person arrested; manner; destruction of biometric data and arrest card; compliance with subsection (8); duties of clerk on final disposition of charge; contents of report; informing director of Federal Bureau of Investigation; requirements applicable to arrest where charges dismissed before trial; comparison of biometric data with that on file; informing arresting agency and prosecuting attorney; applicability of provisions; prohibited conduct under subsection (5).

Sec. 3.

(1) Except as provided in subsection (3), upon the arrest of a person for a felony or for a misdemeanor violation of state law for which the maximum possible penalty exceeds 92 days' imprisonment or a fine of $1,000.00, or both,

or a misdemeanor authorized for DNA collection under section 6(1)(b) of the DNA identification profiling system act, 1990 PA 250, MCL 28.176, or for criminal contempt under section 2950 or 2950a of the revised judicature act of 1961, 1961 PA 236, MCL 600.2950 and 600.2950a, or criminal contempt for a violation of a foreign protection order that satisfies the conditions for validity provided in section 2950i of the revised judicature act of 1961, 1961 PA 236, MCL 600.2950i, or for a juvenile offense, other than a juvenile offense for which the maximum possible penalty does not exceed 92 days' imprisonment or a fine of $1,000.00, or both, or for a juvenile offense that is a misdemeanor authorized for DNA collection under section 6(1)(b) of the DNA identification profiling system act, 1990 PA 250, MCL 28.176, the arresting law enforcement agency in this state shall collect the person's biometric data and forward the biometric data to the department within 72 hours after the arrest. The biometric data must be sent to the department on forms furnished by or in a manner prescribed by the department, and the department shall forward the biometric data to the director of the Federal Bureau of Investigation on forms furnished by or in a manner prescribed by the director.

(2) A law enforcement agency shall collect a person's biometric data under this subsection if the person is arrested for a misdemeanor violation of state law for which the maximum penalty is 93 days or for criminal contempt under section 2950 or 2950a of the revised judicature act of 1961, 1961 PA 236, MCL 600.2950 and 600.2950a, or criminal contempt for a violation of a foreign protection order that satisfies the conditions for validity provided in section 2950i of the revised judicature act of 1961, 1961 PA 236, MCL 600.2950i, if the biometric data have not previously been collected and forwarded to the department under subsection (1). A law enforcement agency shall collect a person's biometric data under this subsection if the person is arrested for a violation of a local ordinance for which the maximum possible penalty is 93 days' imprisonment and that substantially corresponds to a violation of state law that is a misdemeanor for which the maximum possible term of imprisonment is 93 days. If the person is convicted of any violation, the law enforcement agency shall collect the person's biometric data before sentencing if not previously collected. The court shall forward to the law enforcement agency a copy of the disposition of conviction, and the law enforcement agency shall forward the person's biometric data and the copy of the disposition of conviction to the department within 72 hours after receiving the disposition of conviction in the same manner as provided in subsection (1). If the person is convicted of violating a local ordinance, the law enforcement agency shall indicate on the form sent to the department the statutory citation for the state law to which the local ordinance substantially corresponds.

(3) A person's biometric data are not required to be collected and forwarded to the department under subsection (1) or (2) solely because he or she has been arrested for violating section 904(3)(a) of the Michigan vehicle code, 1949 PA 300, MCL 257.904, or a local ordinance substantially corresponding to section 904(3)(a) of the Michigan vehicle code, 1949 PA 300, MCL 257.904.

(4) The arresting law enforcement agency may collect the biometric data of a person who is arrested for a misdemeanor punishable by imprisonment for not more than 92 days or a fine of not more than $1,000.00, or both, and who fails to produce satisfactory evidence of identification as required by section 1 of 1961 PA 44, MCL 780.581. These biometric data must be forwarded to the department immediately. Upon completion of the identification process by the department, the biometric data shall be destroyed.

(5) An arresting law enforcement agency in this state may collect the person's biometric data upon an arrest for a misdemeanor other than a misdemeanor described in subsection (1), (2), or (4), and may forward the biometric data to the department.

(6) If a court orders the collection of a person's biometric data under section 11 or 18 of chapter XIIA of the probate code of 1939, 1939 PA 288, MCL 712A.11 and 712A.18, or section 29 of chapter IV or section 1 of chapter IX of the code of criminal procedure, 1927 PA 175, MCL 764.29 and 769.1, the law enforcement agency shall forward the biometric data and arrest card to the department.

(7) If a petition is not authorized for a juvenile accused of a juvenile offense, if a person arrested for having committed an offense for which biometric data were collected under this section is released without a charge made against him or her, or if criminal contempt proceedings are not brought or criminal charges are not made against a person arrested for criminal contempt for a personal protection order violation under section 2950 or 2950a of the revised judicature act of 1961, 1961 PA 236, MCL 600.2950 and 600.2950a, or criminal contempt for a violation of a foreign protection order that meets the requirements for validity under section 2950i of the revised judicature act of 1961, 1961 PA 236, MCL 600.2950i, the official taking or holding the person's biometric data and arrest card shall immediately destroy the biometric data and arrest card. The law enforcement agency shall notify the department in a manner prescribed by the department that a petition was not authorized against the juvenile or that a charge was not made or that a criminal contempt proceeding was not brought against the arrested person if the juvenile's or arrested person's arrest card was forwarded to the department.

(8) If an individual is arrested for any crime and the charge or charges are dismissed before trial, both of the following apply:

(a) The arrest record shall be removed from the internet criminal history access tool (ICHAT).

(b) If the prosecutor of the case agrees at any time after the case is dismissed, or if the prosecutor of the case or the judge of the court in which the case was filed does not object within 60 days from the date an order of dismissal was entered for cases in which the order of dismissal is entered after the effective date of the amendatory act that

added this subdivision, both of the following apply:

(i) The arrest record, all biometric data, and fingerprints shall be expunged or destroyed, or both, as appropriate.

(ii) Any entry concerning the charge shall be removed from the LEIN.

(9) The department shall comply with the requirements listed in subsection (8) upon receipt of an appropriate order issued by the district court or the circuit court.

(10) If a juvenile is adjudicated and found not to be within the provisions of section 2(a)(1) of chapter XIIA of the probate code of 1939, 1939 PA 288, MCL 712A.2, or if an accused is found not guilty of an offense for which biometric data were collected under this section, upon final disposition of the charge against the accused or juvenile, the biometric data and arrest card must be destroyed by the official holding those items and the clerk of the court entering the disposition shall notify the department of any finding of not guilty or nolle prosequi, if it appears that the biometric data of the accused were initially collected under this section, or of any finding that a juvenile alleged responsible for a juvenile offense is not within the provisions of section 2(a)(1) of chapter XIIA of the probate code of 1939, 1939 PA 288, MCL 712A.2.

(11) Upon final disposition of the charge against the accused, the clerk of the court entering the disposition shall immediately advise the department of the final disposition of the arrest for which the person's biometric data were collected if a juvenile was adjudicated to have committed a juvenile offense or if the accused was convicted of an offense for which the biometric data of the accused were collected under this section or section 16a of chapter IX of the code of criminal procedure, 1927 PA 175, MCL 769.16a. With regard to any adjudication or conviction, the clerk shall transmit to the department information as to any adjudication or finding of guilty or guilty but mentally ill; any plea of guilty, nolo contendere, or guilty but mentally ill; the offense of which the accused was convicted; and a summary of any deposition or sentence imposed. The summary of the sentence must include any probationary term; any minimum, maximum, or alternative term of imprisonment; the total of all fines, costs, and restitution ordered; and any modification of sentence. If the sentence is imposed under any of the following sections, the report shall so indicate:

(a) Section 7411 of the public health code, 1978 PA 368, MCL 333.7411.

(b) Section 1076(4) of the revised judicature act of 1961, 1961 PA 236, MCL 600.1076.

(c) Sections 11 to 15 of chapter II of the code of criminal procedure, 1927 PA 175, MCL 762.11 to 762.15.

(d) Section 4a of chapter IX of the code of criminal procedure, 1927 PA 175, MCL 769.4a.

(e) Section 350a(4) of the Michigan penal code, 1931 PA 328, MCL 750.350a.

(f) Section 430(9)(a) of the Michigan penal code, 1931 PA 328, MCL 750.430.

(g) Section 1209(7) of the revised judicature act of 1961, 1961 PA 236, MCL 600.1209.

(12) The department shall record the disposition of each charge and shall inform the director of the Federal Bureau of Investigation of the final disposition of any arrest or offense for which a person's biometric data were collected under this section or section 16a of chapter IX of the code of criminal procedure, 1927 PA 175, MCL 769.16a.

(13) The department shall compare the biometric data received with those already on file and if the department finds that the person arrested has a criminal record, the department shall immediately inform the arresting agency and prosecuting attorney of this fact.

(14) Except as provided in subsection (8), the provisions of subsection (10) that require the destruction of the biometric data and the arrest card do not apply to a person who was arraigned for any of the following:

(a) The commission or attempted commission of a crime with or against a child under 16 years of age.

(b) Rape.

(c) Criminal sexual conduct in any degree.

(d) Sodomy.

(e) Gross indecency.

(f) Indecent liberties.

(g) Child abusive commercial activities.

(h) A person who has a prior conviction, other than a misdemeanor traffic offense, unless a judge of a court of record, except the probate court, by express order on the record, orders the destruction or return of the biometric data and arrest card.

(i) A person arrested who is a juvenile charged with an offense that would constitute the commission or attempted commission of any of the crimes in this subsection if committed by an adult.

(15) Subsection (5) does not permit the forwarding to the department of the biometric data of a person accused and convicted under the Michigan vehicle code, 1949 PA 300, MCL 257.1 to 257.923, or a local ordinance substantially corresponding to a provision of that act, unless the offense is punishable upon conviction by imprisonment for more than 92 days or is an offense that is punishable by imprisonment for more than 92 days upon a subsequent conviction.

History: 1925, Act 289, Imd. Eff. May 13, 1925 ;-- Am. 1929, Act 197, Imd. Eff. May 20, 1929 ;-- CL 1929, 569 ;-- Am. 1931, Act 197, Imd. Eff. May 28, 1931 ;-- Am. 1937, Act 205, Eff. Oct. 29, 1937 ;-- CL 1948, 28.243 ;-- Am. 1951, Act 99, Eff. Sept. 23, 1951 ;-- Am. 1958, Act 92, Eff. Sept. 13, 1958 ;-- Am. 1959, Act 176, Eff. Mar. 19, 1960 ;-- Am. 1978, Act 538, Imd. Eff. Dec. 22, 1978 ;-- Am. 1986,

Act 231, Eff. June 1, 1987 ;-- Am. 1988, Act 40, Eff. June 1, 1988 ;-- Am. 1989, Act 97, Imd. Eff. June 21, 1989 ;-- Am. 1999, Act 77, Eff. Oct. 1, 1999 ;-- Am. 1999, Act 266, Imd. Eff. Dec. 29, 1999 ;-- Am. 2001, Act 187, Eff. Apr. 1, 2002 ;-- Am. 2001, Act 203, Eff. Oct. 1, 2002 ;-- Am. 2002, Act 694, Imd. Eff. Dec. 30, 2002 ;-- Am. 2004, Act 222, Eff. Jan. 1, 2005 ;-- Am. 2012, Act 374, Imd. Eff. Dec. 14, 2012 ;-- Am. 2018, Act 67, Eff. June 12, 2018

28.243a Collection of biometric data; refusal or resistance as misdemeanor.

Sec. 3a.

(1) A person shall not refuse to allow or resist the collection of his or her biometric data if authorized or required under this act.

(2) A person who violates subsection (1) is guilty of a misdemeanor punishable by imprisonment for not more than 90 days or by a fine of not more than $500.00, or both.

History: Add. 1968, Act 174, Eff. Nov. 15, 1968 ;-- Am. 1986, Act 231, Eff. June 1, 1987 ;-- Am. 2001, Act 187, Eff. Apr. 1, 2002 ;-- Am. 2012, Act 374, Imd. Eff. Dec. 14, 2012

28.244 Cooperation with bureaus in other states, federal bureau of investigation, and United States justice department.

Sec. 4.

The commanding officer shall cooperate with the bureaus in other states and with the federal bureau of investigation and the United States justice department, to develop and carry on a complete interstate, national, and international system of criminal identification and records.

History: 1925, Act 289, Imd. Eff. May 13, 1925 ;-- CL 1929, 570 ;-- Am. 1931, Act 197, Imd. Eff. May 28, 1931 ;-- CL 1948, 28.244 ;-- Am. 1986, Act 231, Eff. June 1, 1987

28.245 Local bureaus of identification; establishment.

Sec. 5.

The commanding officer shall offer assistance and when practicable, instruction, to county sheriffs, chiefs of police, and other peace officers in establishing an efficient local bureau of identification in their districts.

History: 1925, Act 289, Imd. Eff. May 13, 1925 ;-- CL 1929, 571 ;-- CL 1948, 28.245 ;-- Am. 1986, Act 231, Eff. June 1, 1987

28.245a Performance audits of criminal and juvenile history record information; report.

Sec. 5a.

(1) The commanding officer may perform random performance audits of the criminal and juvenile history record information required under this act.

(2) If the commanding officer finds during a performance audit that criminal or juvenile history record information is not being supplied as required under this act, the commanding officer shall report this fact to the attorney general.

History: Add. 1986, Act 231, Eff. June 1, 1987 ;-- Am. 1988, Act 40, Eff. June 1, 1988

28.246 Neglect or refusal of officers or officials to perform duties as misdemeanor; penalty.

Sec. 6.

Neglect or refusal of any of the officers or officials mentioned in sections 2, 3, and 7 to report as required under this act or to perform any other act required to be performed by him or her under this act shall constitute a misdemeanor, punishable by a fine of not less than $25.00 nor more than $100.00, or by imprisonment for not more than 60 days, or both. Such neglect or refusal shall also constitute nonfeasance in office and subject the official or officer to removal from office.

History: 1925, Act 289, Imd. Eff. May 13, 1925 ;-- CL 1929, 572 ;-- CL 1948, 28.246 ;-- Am. 1986, Act 231, Eff. June 1, 1987

28.247 Sexually motivated crimes and juvenile offenses and crimes and juvenile offenses involving sexual conduct; reports; forms; filing; confidentiality; examination of reports; violation as misdemeanor; penalty.

Sec. 7.

The sheriff of every county and the chief executive officer of the police department of every city, village, and township shall make reports of accused persons against whom a warrant has been issued and the disposition thereof in sexually motivated crimes and juvenile offenses and crimes and juvenile offenses involving sexual conduct verified as such and the disposition of cases resulting from such charges. The department of state police shall provide the forms necessary for reporting such information, and the department shall file the reports or copies of the reports in a separate confidential filing system. The reports shall be available for examination only by the attorney general, any prosecuting attorney, any court of record, the director of the state police, county sheriffs, and the chief executive officer of the police department of any city, village, or township and their authorized officers. The reports shall be held confidential except for official use. Any person who violates any of the confidential provisions of this section shall be guilty of a misdemeanor, punishable by imprisonment for not more than 1 year, or by a fine of not more than $500.00, or both.

History: Add. 1955, Act 132, Imd. Eff. June 7, 1955 ;-- Am. 1986, Act 231, Eff. June 1, 1987 ;-- Am. 1988, Act 40, Eff. June 1, 1988
Former Law: See Section 7 of Act 289 of 1929, which was repealed by Act 267 of 1945 .

28.248 Use of biometric data for criminal identification.

Sec. 8.

Biometric data obtained under a law or rule for noncriminal identification purposes may be used for criminal identification purposes unless prohibited by law or rule.

History: Add. 2001, Act 187, Eff. Apr. 1, 2002 ;-- Am. 2012, Act 374, Imd. Eff. Dec. 14, 2012
Compiler's Notes: Former MCL 28.248, which pertained to director's report and recommendations, was repealed by Act 231 of 1986, Eff. June 1, 1987.

28.249 Repealed. 1986, Act 231, Eff. June 1, 1987.

Compiler's Notes: The repealed section pertained to access to public records and documents.

UNIFORM CRIME REPORTING SYSTEM

Act 319 of 1968

AN ACT to provide a uniform crime reporting system; to provide for the submitting of such report to the department of state police; to require submission of the report by certain police agencies; to require the reporting on wanted persons and stolen vehicles; to require the reporting of information regarding certain persons and unidentified bodies of deceased persons; to prescribe certain powers and duties of law enforcement agencies; and to vest the director of the department of state police with certain authority.

History: 1968, Act 319, Imd. Eff. July 3, 1968 ;-- Am. 1985, Act 204, Eff. Mar. 1, 1986

The People of the State of Michigan enact:

28.251 Uniform crime reports; duties of police departments to file, contents.

Sec. 1.

The police department of each city or village, any duly constituted police department of a township, and the sheriff's department of each county, once each month upon a date and form prescribed and furnished by the director of the department of state police, shall forward to the department of state police a crime report. Each reporting department shall report only on cases within its jurisdiction and upon which it is making, or has made, the primary police investigation. The report shall be called the uniform crime report and shall cover crimes reported and otherwise processed during the month preceding the month of the report. It shall contain the number and nature of offenses committed, the disposition of such offenses and such other information as the director of state police shall specify relating to the method, frequency, cause and prevention of crime. Under no circumstances shall the name of any person be reported.

History: 1968, Act 319, Imd. Eff. July 3, 1968

28.252 Compilation of monthly uniform crime reports; use.

Sec. 2.

Upon receipt of the monthly uniform crime reports from the reporting agencies, the department of state police shall prepare a statewide compilation of the statistics contained therein and the resulting statistical compilation shall be available to any governmental law enforcement agency in the state, the judiciary committees of the Michigan state senate and the Michigan state house of representatives, and the federal bureau of investigation, upon request. The statistics made available through the uniform crime report shall be used for the purpose of studying the causes, trends and effects of crime in this state and for intelligence upon which to base a more sound program of crime detection and prevention and the apprehension of criminals.

History: 1968, Act 319, Imd. Eff. July 3, 1968

28.253 Voluntary crime reports; inclusion in compilation.

Sec. 3.

Any governmental police agency, not falling within the description of those required to submit the monthly uniform crime report set forth in section 1, which desires to submit such a report, shall be furnished with the proper forms by the department of state police. When a report is received by the department of state police from a governmental police agency not required to make such report, the information contained therein shall be included within the monthly compilation provided for in section 2.

History: 1968, Act 319, Imd. Eff. July 3, 1968

28.254 Reports of wanted persons and stolen vehicles.

Sec. 4.

The chief of police of each city or village and of each township having a police department, and the sheriff of each county within this state, shall report to the department of state police, in a manner prescribed by the department, all persons wanted by, and all vehicles stolen from, their primary police jurisdictions. The report shall be made as soon as is practical after the investigating department either ascertains that a vehicle is stolen or obtains a warrant for an individual's arrest or determines that they have reasonable grounds to believe that the individual committed a crime. In no case shall this time exceed 12 hours after the reporting agency determines that it has grounds to believe that a vehicle was stolen or that the wanted person should be arrested.

History: 1968, Act 319, Imd. Eff. July 3, 1968

28.255 Reports of apprehension or recovery.

Sec. 5.

When at any time after making a report required by section 4 it is determined by the reporting agency that a person is no longer wanted because of his apprehension, or any other factor, and when a vehicle reported stolen under section 4 is recovered, the chief of police or sheriff of the reporting agency shall immediately notify the department of state police in a manner prescribed by the department.

History: 1968, Act 319, Imd. Eff. July 3, 1968

28.256 Inapplicability of act as to traffic misdemeanors.

Sec. 6.

The provisions of this act do not apply to misdemeanor traffic cases or to persons wanted for misdemeanor traffic offenses, or for the violation of any city, village or township ordinance. The provisions of this act shall not be construed to in any way affect existing or future laws and procedures governing the reporting of persons wanted for traffic law violations or for the violation of city, village or township ordinances.

History: 1968, Act 319, Imd. Eff. July 3, 1968

28.257 Domestic violence incidents; report to state police; contents.

Sec. 7.

The chief of police of each city or village, the chief of police of each township having a police department, and the sheriff of each county within this state shall report to the department of state police, in a manner prescribed by the department, the following information related to domestic violence incidents:

(a) The number of assaults reported that involve an adult and a minor and the disposition of those offenses.

(b) The number of assaults reported that involve either 2 male adults or 2 female adults and the disposition of those offenses.

(c) The number of assaults reported that involve 1 male adult and 1 female adult and the disposition of those offenses.

(d) The number of crimes reported that involve an individual and his or her spouse, his or her former spouse, an individual with whom he or she has had a child in common, an individual with whom he or she has or has had a dating relationship, or an individual who resides or has resided in the same household; and the disposition of those offenses. As used in this subdivision, "dating relationship" means that term as defined in section 2950 of the revised judicature act of 1961, 1961 PA 236, MCL 600.2950.

(e) Other statistics the director of the department of state police considers necessary to obtain accurate and reliable data on the incidence of domestic violence in this state.

History: Add. 1978, Act 319, Imd. Eff. July 10, 1978 ;-- Am. 2001, Act 191, Eff. Oct. 1, 2002

28.257a Crimes motivated by prejudice or bias; report.

Sec. 7a.

The chief of police of each city or village, the chief of police of each township having a police department, and the sheriff of each county within this state shall report to the department of state police, in a manner prescribed by the department, information specified under section 1 related to crimes motivated by prejudice or bias based upon race, ethnic origin, religion, gender, or sexual orientation.

History: Add. 1991, Act 172, Eff. Mar. 30, 1992

28.258 Definitions; certain individuals reported missing; preliminary investigation; entering information into LEIN, national crime information center, national missing and unidentified persons system, and clearinghouse; dental records; retaining and broadcasting information; forwarding information to registrar; notice and information to last known school district; request that registrar and school district be notified; emancipated missing child; cancellation of information; policy preventing immediate investigation prohibited; unidentified body; unknown identity of individual found.

Sec. 8.

(1) As used in this section and section 9:

(a) "Child" means an individual less than 17 years of age.

(b) "Clearinghouse" means the missing child information clearinghouse established under section 9.

(c) "Department" means the department of state police.

(d) "Law enforcement agency" means the department, a police agency of a city, village, or township, a sheriff's department, or any other governmental law enforcement agency in this state.

(e) "LEIN" means law enforcement information network regulated under the C.J.I.S. policy council act, 1974 PA 163, MCL 28.211 to 28.215.

(f) "Registrar" means the state registrar as defined in section 2805 of the public health code, 1978 PA 368, MCL 333.2805.

(2) If an individual who is any of the following is reported missing, the law enforcement agency receiving the report, after conducting a preliminary investigation, shall immediately enter the information described in subsection (3) regarding that individual into the LEIN, the national crime information center, the national missing and unidentified persons system, and, if the individual is a child, the clearinghouse:

(a) An individual who has a physical or mental disability as evidenced by written documentation from a physician or other authoritative source. As used in this act, "mental disability" includes Alzheimer's disease and dementia.

(b) An individual who was in the company of another individual under circumstances indicating that the individual's physical safety may be in danger.

(c) An individual who disappeared under circumstances indicating that the disappearance was not voluntary.

(d) A child not described in subdivision (a), (b), (c), or (f).

(e) An individual not described in subdivision (a), (b), (c), or (f), who is believed to be incapable of returning to his or her residence without assistance.

(f) An individual who is missing as the result of a natural or intentionally caused catastrophe or extraordinary accident that causes the loss of human life.

(3) The information to be entered into the LEIN, the national crime information center, the national missing and unidentified persons system, and the clearinghouse under subsection (2) must include all of the following, if available:

(a) The name and address of the individual.

(b) The vital statistics of the individual, including a physical description, and if the missing individual is a child, the child's date of birth, state of birth, and if possible, mother's maiden name.

(c) The date the individual was missing and, if the missing individual is a child under subsection (2)(d), the date the child becomes 17 years of age.

(d) Any other information that may assist in the location of the individual and any other information required to be entered into the national missing and unidentified persons system, as determined by the department and the LEIN policy council.

(4) If subsections (2) and (3) have been complied with and the individual is not found within 30 days, the law enforcement agency that received the report under subsection (2) shall seek the dental records of the individual under section 2844a of the public health code, 1978 PA 368, MCL 333.2844a. The information from the dental records must be entered into the national crime information center, the national missing and unidentified persons system, and, if the individual is a child, the clearinghouse by the law enforcement agency.

(5) The LEIN must retain the information under subsection (3) reported to it until the law enforcement agency that entered the information cancels the information.

(6) The law enforcement agency receiving a report of a missing individual described in subsection (2) may, or if the individual is a child and subject to the policy established by the clearinghouse, or if the individual has Alzheimer's disease or dementia or is believed to be incapable of returning to his or her residence without assistance, shall, broadcast the information described in subsection (3) over the LEIN to all of the following:

(a) All law enforcement agencies having jurisdiction of the location where the missing individual lives or was last seen.

(b) Any other law enforcement agency that potentially could become involved in locating the missing individual.

(c) All law enforcement agencies to which the individual who reported the individual missing requests the information be sent, if the request is reasonable.

(7) If 14 days have elapsed since the law enforcement agency has received a report that a child who was born in this state is missing, and the agency has not been notified of the child's return, the LEIN must forward online the information described in subsection (3) to the registrar via the registrar's restricted access LEIN terminal.

(8) If 14 days have elapsed since the law enforcement agency has received a report of a missing child and the agency has not been notified of the child's return, the agency, if it has reason to believe that a missing child may be enrolled in a school district in this state, shall notify in writing the child's last known local school district or intermediate school district that the child is missing and shall provide the school district with the information described in subsection (3).

(9) A parent or legal guardian of a child missing before June 29, 1987, may notify a law enforcement agency that he or she wants the registrar and school district notified under subsections (7) and (8). Upon receiving the request, the law enforcement agency shall proceed as provided in subsections (7) and (8).

(10) On the seventeenth birthday of a child who has been reported missing under subsection (2)(d), any information entered into the LEIN regarding that child must be retained and the child must be considered to be an emancipated missing child until the information is canceled by the law enforcement agency that entered the information into the network. If the information entered into the LEIN regarding a child missing as under subsection (2) is canceled, the law enforcement agency that entered the information into the network shall inform the registrar and school district notified as prescribed by subsection (7) of the cancellation.

(11) A law enforcement agency shall not establish or maintain a policy that prevents an immediate investigation as soon as practical regarding an individual described in subsection (2) who is reported missing.

(12) When the unidentified body of a deceased individual is found, the law enforcement agency receiving the

report, after conducting a preliminary investigation, shall immediately enter the following information, if available, into the national crime information center, the national missing and unidentified persons system, and, if the body is that of a child, into the clearinghouse:

(a) The physical description of the unidentified body and whether footprints, body X-rays, and fingerprint classifications are available.

(b) The date the body was found and the cause and manner of death.

(c) What body parts are found if the body is dismembered.

(d) Dental examination records obtained under section 2844a of the public health code, 1978 PA 368, MCL 333.2844a.

(e) Any other information that would assist in the identification of the body and any other information required to be entered into the national missing and unidentified persons system, as determined by the department and the LEIN policy council.

(13) When an individual is found whose identity is unknown and cannot be readily determined, the law enforcement agency receiving the report, after conducting a preliminary investigation, shall enter the following information into the national crime information center, the national missing and unidentified persons system, and, if the individual is a child, the clearinghouse:

(a) A physical description of the individual.

(b) Any other information that would assist in the identification of the individual and any other information required to be entered into the national missing and unidentified persons system, as determined by the department and the LEIN policy council.

History: Add. 1985, Act 204, Eff. Mar. 1, 1986 ;-- Am. 1987, Act 82, Imd. Eff. June 29, 1987 ;-- Am. 1995, Act 39, Imd. Eff. May 22, 1995 ;-- Am. 2002, Act 718, Imd. Eff. Dec. 30, 2002 ;-- Am. 2006, Act 450, Imd. Eff. Dec. 14, 2006 ;-- Am. 2018, Act 102, Eff. July 4, 2018

28.259 Missing children information clearinghouse; establishment; administration; supervision; services; duties; location of child; compliance.

Sec. 9.

(1) A missing children information clearinghouse is established in the department. Except as otherwise provided in this section, the department shall administer the clearinghouse as a central repository of information regarding missing children, which information shall be collected and disseminated to assist in the location of missing children. The department director shall designate an individual to supervise the clearinghouse. To the extent money is available, the department shall establish services considered appropriate to aid in the location of missing children.

(2) In providing a centralized file for exchange of information on missing children within the state, the clearinghouse shall do all of the following:

(a) Record each report on a missing child received under section 8.

(b) Accept and record a report about a missing child from a law enforcement agency.

(c) Exchange information on children suspected of interstate travel with the national crime information center.

(d) Establish a policy regarding the compilation of a record of the reasons children become missing.

(3) Upon locating the missing child, the originating law enforcement agency shall remove the missing child from the clearinghouse record by means of the LEIN. If the originating law enforcement agency has new information about the missing child's location, that agency shall report the information to the law enforcement agency with jurisdiction in the area in which the missing child may be located.

(4) The department may audit law enforcement agency records as necessary to determine compliance with this section. A law enforcement agency shall comply with the reasonable requests of the department in carrying out this subsection and in otherwise administering the clearinghouse.

History: Add. 1995, Act 39, Imd. Eff. May 22, 1995

FINGERPRINTING INMATES OF STATE INSTITUTIONS

Act 86 of 1935

AN ACT to provide for the compulsory finger-printing of inmates of certain state institutions, and to provide for the recording and filing thereof by the bureau of identification of the department of public safety.

History: 1935, Act 86, Imd. Eff. May 27, 1935

The People of the State of Michigan enact:

28.261 Fingerprinting inmates of penal or correctional institution; compliance; copies of impressions.

Sec. 1.

A person entering into and each and every person now confined in a penal or correctional institution shall be required to have an impression of his fingerprints made. It shall be the duty of the superintendent of the admitting or confining institution to see that the provisions of this section are complied with and that at least 2 copies of the impression are made, 1 for the files of the institution and the other to be forwarded to the department of state police.

History: 1935, Act 86, Imd. Eff. May 27, 1935 ;-- CL 1948, 28.261 ;-- Am. 1973, Act 88, Imd. Eff. Aug. 5, 1973

28.262 Bureau of identification filing system for fingerprints of inmates of state institutions; purpose, equipment, supplies.

Sec. 2.

It shall be the duty of the bureau of identification to install and maintain a filing system for the purpose of recording and preserving the various impressions received by it by virtue of the terms of this act, said filing system to be separated from the system now employed by the bureau for the recording and preserving of finger-print impressions of criminals. The equipment and supplies for the proper carrying out of this act shall be furnished by the department of public safety.

History: 1935, Act 86, Imd. Eff. May 27, 1935 ;-- CL 1948, 28.262

FINGERPRINTING RESIDENTS OF STATE

Act 120 of 1935

AN ACT to prescribe a method for the fingerprinting of residents of the state; to provide for the recording and filing of the fingerprints by the central records division of the department of state police; and to impose a fee.

History: 1935, Act 120, Eff. Sept. 21, 1935 ;-- Am. 1985, Act 175, Imd. Eff. Dec. 2, 1985 ;-- Am. 2015, Act 71, Eff. Oct. 1, 2015

The People of the State of Michigan enact:

28.271 Request for impression of fingerprints; copies; exception.

Sec. 1.

Except as provided in section 4 of the child identification and protection act, 1985 PA 176, MCL 722.774, if a resident of this state appears before any sheriff or police agency for the county in which he or she resides and requests an impression of his or her fingerprints, the agency shall comply with the request and make at least 2 copies of the impression, 1 for the files of the local police and the other to be forwarded to the central records division of the department of state police.

History: 1935, Act 120, Eff. Sept. 21, 1935 ;-- CL 1948, 28.271 ;-- Am. 1985, Act 175, Imd. Eff. Dec. 2, 1985 ;-- Am. 2017, Act 25, Eff. Aug. 2, 2017

28.272 Filing system; purpose; equipment and supplies.

Sec. 2.

The central records division of the department of state police shall install and maintain a filing system for the purpose of recording and preserving the various impressions received by it by virtue of the terms of this act, the filing system to be distinguished from the system now employed by the division for the recording and preserving of fingerprints of criminals. The equipment and supplies for the proper carrying out of this act shall be furnished by the department of state police.

History: 1935, Act 120, Eff. Sept. 21, 1935 ;-- Am. 1943, Act 170, Imd. Eff. Apr. 17, 1943 ;-- CL 1948, 28.272 ;-- Am. 1985, Act 175, Imd. Eff. Dec. 2, 1985

28.273 Fingerprinting and criminal record check; fee.

Sec. 3.

(1) Until October 1, 2027, the department of state police may charge a fee, not to exceed $30.00, for taking and processing the fingerprints and completing a criminal record check of a resident of this state when the impression of the fingerprints are requested for employment-related or licensing-related purposes. A fee must not be collected under this subsection if a fee for taking and processing fingerprints is collected under any other law. The fee must not exceed the actual cost of taking and processing the impression of the fingerprints and completing a criminal record check on that person. The fee must be collected and forwarded to the state police by the licensing body or the employer.

(2) Until October 1, 2027, the department of state police may charge a fee of $10.00 for processing and completing a name-based criminal record check. However, a fee must not be charged under this subsection if a fee for processing the name-based criminal record check is charged under any other law or if the requester is a government agency or nonprofit charitable agency performing employment or volunteer employment name-based background checks through the internet criminal history access tool (ICHAT).

History: Add. 1985, Act 175, Imd. Eff. Dec. 2, 1985 ;-- Am. 2002, Act 463, Imd. Eff. June 21, 2002 ;-- Am. 2004, Act 359, Imd. Eff. Sept. 30, 2004 ;-- Am. 2007, Act 76, Imd. Eff. Sept. 30, 2007 ;-- Am. 2010, Act 178, Eff. Oct. 1, 2010 ;-- Am. 2012, Act 318, Imd. Eff. Oct. 1, 2012 ;-- Am. 2015, Act 71, Eff. Oct. 1, 2015 ;-- Am. 2019, Act 78, Imd. Eff. Sept. 30, 2019 ;-- Am. 2023, Act 136, Imd. Eff. Sept. 29, 2023

28.274 Fingerprints and photograph of individual with special needs; request by parent or guardian; form; fee; waiver; remittance and forwarding of fee; forwarding fingerprints and photograph to director of Federal Bureau of Investigation; removal from automated fingerprint identification system database and statewide network of agency photos; definitions.

Sec. 4.

(1) A parent or guardian of an individual with special health care needs may submit a written request to a department-approved entity to take the fingerprints and photograph of the individual with special health care needs and add them to the automated fingerprint identification system (AFIS) database and the statewide network of agency photos maintained by the department.

(2) A written request made under subsection (1) must be made on a form posted on the department's website. Along with the form, the department shall provide a list of department-approved entities on the department's website.

(3) The department may charge a fee sufficient to reimburse the department for the costs associated with processing a request under subsection (1).

(4) At the time an individual with special health care needs is presented at a department-approved entity to have his or her fingerprints and photograph taken, the department-approved entity taking the fingerprints and photograph shall require the parent or guardian presenting the individual with special health care needs to execute a signed waiver allowing the individual's fingerprints and photograph to be collected.

(5) At the time an individual with special health care needs is presented at a department-approved entity to have his or her fingerprints and photograph taken, the department-approved entity taking the fingerprints and photograph shall require the parent or guardian presenting the individual with special health care needs to remit the fee described in subsection (3). The department-approved entity shall forward the fee collected under this subsection to the department in the manner the department prescribes.

(6) The department shall forward the fingerprints and photographs taken under this section to the director of the Federal Bureau of Investigation on forms furnished by or in a manner prescribed by the director for registration, storage, and use for identification purposes by the Federal Bureau of Investigation.

(7) A parent or guardian may make a written request to the department to have the fingerprints and photograph of an individual with special health care needs taken under this section removed from the automated fingerprint identification system (AFIS) database and the statewide network of agency photos. The department shall remove the fingerprints and photograph of an individual with special health care needs taken under this section from the automated fingerprint identification system (AFIS) database and the statewide network of agency photos upon receipt of a written request made by a parent or guardian under this subsection.

(8) As used in this section:

(a) "Department" means the department of state police.

(b) "Department-approved entity" means an entity, including a local law enforcement agency or a private company, approved by the department to take the fingerprints and photograph of an individual with special health care needs as provided in this section.

(c) "Guardian" means a person who has qualified as a guardian of a minor or a legally incapacitated individual under a parental or spousal nomination or a court order issued under section 19a or 19c of chapter XIIA of the probate code of 1939, MCL 712A.19a and 712A.19c, section 5204, 5205, or 5306 of the estates and protected individuals code, 1998 PA 386, MCL 700.5204, 700.5205, and 700.5306, or sections 600 to 644 of the mental health code, 1974 PA 258, MCL 330.1600 to 330.1644. Guardian may also include a person appointed by a tribal court under tribal code or custom. Guardian does not include a guardian ad litem.

(d) "Individual with special health care needs" means a single or married individual whose activity is or may become so restricted by disease or specified medical condition as to reduce the individual's normal capacity for education and self-support.

(e) "Parent" means the natural or adoptive parent of an individual with special health care needs who has either or both sole or joint legal or physical custody of the child if a court order dictating custody is in place, or the natural or adoptive parent of an individual with special health care needs if there is no court order dictating custody in place.

History: Add. 2017, Act 25, Eff. Aug. 2, 2017

RADIO BROADCASTING STATIONS

Act 152 of 1929

AN ACT to provide for the state-owned and operated Michigan public safety communications system; to provide for acquisition, construction, implementation, operation, and maintenance of the property and equipment necessary to operate the system; and to prescribe the powers and duties of certain state agencies and officials.

History: 1929, Act 152, Eff. Aug. 28, 1929 ;-- Am. 1945, Act 62, Eff. Sept. 6, 1945 ;-- Am. 1996, Act 538, Imd. Eff. Jan. 13, 1997 ;-- Am. 2014, Act 564, Imd. Eff. Jan. 15, 2015

The People of the State of Michigan enact:

28.281 Michigan public safety communications system; establishment within department of technology, management, and budget; scope.

Sec. 1.

The Michigan public safety communications system is an 700-megahertz and 800-megahertz radio system and telecommunication network within the department of technology, management, and budget and includes all real and personal property, towers, buildings, equipment, and other related facilities and fixtures necessary for the operation and maintenance of the system.

History: 1929, Act 152, Eff. Aug. 28, 1929 ;-- CL 1929, 574 ;-- CL 1948, 28.281 ;-- Am. 1996, Act 538, Imd. Eff. Jan. 13, 1997 ;-- Am. 2014, Act 564, Imd. Eff. Jan. 15, 2015

28.282 Michigan public safety communications system; construction; implementation; operation; maintenance; location; special use permit.

Sec. 2.

(1) The director of the department of technology, management, and budget is responsible for the construction, implementation, operation, and maintenance of the Michigan public safety communications system.

(2) In siting the buildings and equipment necessary to implement the Michigan public safety communications system, the director of the department of technology, management, and budget shall locate the system, and a local unit of government with zoning authority shall be notified of a site selected in their jurisdiction and the requirements necessary for a site. If the selected site does not comply with zoning, the local unit has 30 days from the date of notification to grant a special use permit or propose an equivalent site. If the local unit does not grant a special use permit within the 30 day period, or a proposed alternate site does not meet the siting requirements, the department of technology, management, and budget may proceed with construction.

History: 1929, Act 152, Eff. Aug. 28, 1929 ;-- CL 1929, 575 ;-- Am. 1945, Act 62, Eff. Sept. 6, 1945 ;-- CL 1948, 28.282 ;-- Am. 1996, Act 538, Imd. Eff. Jan. 13, 1997 ;-- Am. 2014, Act 564, Imd. Eff. Jan. 15, 2015

28.283 Michigan public safety communications system; police dispatches and reports; broadcast; use by governmental public safety agency; collocation; costs; collation by governmental agency not public safety agency; use of money collected from collation leasing; access to tower; denial of permission to install, attach, or continue to collocate equipment; definitions.

Sec. 3.

(1) The department of state police shall broadcast all police dispatches and reports that have a reasonable relation to or connection with the apprehension of criminals, the prevention of crime, or the maintenance of peace, order, and public safety in this state.

(2) The director of the department of technology, management, and budget and the director of the department of state police jointly may authorize any public safety agency or person to utilize the Michigan public safety communications system for communications consistent with federal rules and regulations or to utilize the Michigan public safety communications system for collocations. Collocations by a person other than a governmental entity shall be authorized only to provide service in a service needs area.

(3) All costs associated with planning, installing, and maintaining collocation equipment are the responsibility of the public safety agency or person requesting permission for collocation. Costs associated with collocating on the

Michigan public safety communications system paid by a public safety agency shall be comparable to the costs charged to other public safety agencies. Costs associated with collocating on the Michigan public safety communications system paid by a person other than a public safety agency shall be comparable to the costs charged to other persons that are not a public safety agency.

(4) Except as otherwise provided in this subsection, a governmental entity may collocate on the Michigan public safety communications system. Until 3 years after the effective date of the amendatory act that added this subsection, a governmental entity that is not a public safety agency shall not collocate on the Michigan public safety communications system for any commercial or business purpose. Beginning 3 years after the effective date of the amendatory act that added this subsection, a governmental entity that is not a public safety agency may collocate on the Michigan public safety communications system for a commercial or business purpose only to provide service in a service needs area.

(5) The department of technology, management, and budget shall use any money collected from collocation leasing of the Michigan public safety communications system for the construction or maintenance of the Michigan public safety communications system including the payment of debt service for bonds that finance the construction or maintenance of the Michigan public safety communications system.

(6) The department of technology, management, and budget shall not allow a public safety agency or person access to a tower for installation, attachment, maintenance, or any other purpose without the supervision of an appropriate employee of the department of technology, management, and budget. The department of technology, management, and budget shall perform an inspection following any installation of collocation equipment to ensure that the integrity of the Michigan public safety communications system has not been compromised.

(7) The director of the department of technology, management, and budget and the director of the department of state police shall jointly deny a public safety agency or person permission to install, attach, or continue to collocate equipment to a tower constructed under this act if the director of the department of technology, management, and budget and the director of the department of state police, or their designees, jointly determine that the installation, attachment, or continued collocation will interfere with the optimum operation of the Michigan public safety communications system or any current or planned public safety communications collocated on a tower.

(8) As used in this section:

(a) "Collocate" means to place or install wireless communications equipment or network components used in the provision of wireless communications services, including, but not limited to, antennas, transmitters, receivers, base stations, equipment shelters, cabinets, emergency generators, power supply cabling, and coaxial and fiber optic cable, on or in the real or personal property or towers used in the operation and maintenance of the Michigan public safety communications system.

(b) "Commercial or business purpose" does not include those uses of the Michigan public safety communications system approved before the effective date of the amendatory act that added subsection (3) or uses consistent with federal rules and regulations in connection with the allocation of wireless spectrum for public safety communication.

(c) "Person" means an individual, corporation, partnership, association, governmental entity, or any other legal entity.

(d) "Public safety agency" means a functional division of a public agency, county, or this state that provides firefighting, law enforcement, ambulance, medical, or other emergency services.

(e) "Service needs area" means an area determined by the connect Michigan broadband service industry survey for the state of Michigan to be unserved by advertised speeds of at least 3 megabits per second downstream and 768 kilobits per second upstream as of October 1, 2014.

History: 1929, Act 152, Eff. Aug. 28, 1929 ;-- CL 1929, 576 ;-- Am. 1945, Act 62, Eff. Sept. 6, 1945 ;-- CL 1948, 28.283 ;-- Am. 1996, Act 538, Imd. Eff. Jan. 13, 1997 ;-- Am. 2014, Act 564, Imd. Eff. Jan. 15, 2015

28.287 Repealed. 1996, Act 538, Imd. Eff. Jan. 13, 1997.

Compiler's Notes: The repealed section pertained to purchase of sets, employment of operators, and expenses relating to state radio stations.

STATE PERSONAL IDENTIFICATION CARD

Act 222 of 1972

AN ACT to provide for an official personal identification card; to provide for its form, issuance and use; to regulate the use and disclosure of information obtained from the card; to prescribe the powers and duties of the secretary of state; to prescribe fees; to prescribe certain penalties for violations; and to provide an appropriation for certain purposes.

History: 1972, Act 222, Imd. Eff. July 25, 1972 ;-- Am. 1975, Act 307, Eff. Jan. 1, 1976 ;-- Am. 1997, Act 99, Imd. Eff. Aug. 7, 1997 ;-- Am. 2002, Act 553, Eff. Oct. 1, 2002

The People of the State of Michigan enact:

28.291 Official state personal identification card; application; requirements; automatic voter registration opt-out; identification card issued by department of corrections as documentation; electronic access to prisoner information; person holding operator's or chauffeur's license; applicant not citizen of United States; disclosure or display of Social Security number; exception; agreements with federal government; termination of official state personal identification card issued by another state; duties of secretary of state; communication impediment designation.

Sec. 1.

(1) An individual who is a resident of this state may apply to the secretary of state for an official state personal identification card. Upon application, the applicant shall supply a photographic identity document, a birth certificate or other nonphotographic identity document, and other sufficient documents as the secretary of state may require to verify the identity and citizenship of the applicant. If an applicant for an official state personal identification card is not a citizen of the United States, the applicant shall supply a photographic identity document and other sufficient documents to verify the identity of the applicant and the applicant's legal presence in the United States under subsection (5). The documents required under this subsection must include the applicant's full legal name, date of birth, address, and residency and demonstrate that the applicant is a citizen of the United States or is legally present in the United States. If the applicant's full legal name differs from the name of the applicant that appears on a document presented under this subsection, the applicant shall present documents to verify the applicant's current full legal name. An application for an official state personal identification card must be made in a manner prescribed by the secretary of state and must contain the applicant's full legal name, date of birth, residence address, height, sex, eye color, signature, intent to be an organ donor, other information required or permitted on the official state personal identification card and, only to the extent to comply with federal law, the applicant's Social Security number. The applicant may provide a mailing address if the applicant receives mail at an address different from the applicant's residence address. Beginning June 27, 2021, if the applicant is a program participant in the address confidentiality program under the address confidentiality program act, 2020 PA 301, MCL 780.851 to 780.873, the applicant shall present to the secretary of state the applicant's participation card issued under the address confidentiality program act, 2020 PA 301, MCL 780.851 to 780.873. Only for voter registration transactions under section 493a(6) of the Michigan election law, 1954 PA 116, MCL 168.493a, an applicant for an official state personal identification card must indicate on the application or change of address application whether the applicant is a citizen of the United States. Only for voter registration transactions under section 493a(6) of the Michigan election law, 1954 PA 116, MCL 168.493a, an application must allow the applicant to indicate that the applicant declines to use the application as a voter registration application.

(2) The secretary of state shall accept as 1 of the identification documents required under subsection (1) an identification card issued by the department of corrections to prisoners who are placed on parole or released from a correctional facility, containing the prisoner's legal name, photograph, and other information identifying the prisoner as provided in section 37(4) of the corrections code of 1953, 1953 PA 232, MCL 791.237.

(3) The secretary of state shall have electronic access to prisoner information maintained by the department of corrections for the purpose of verifying the identity of a prisoner who applies for an official state identification card under subsection (1).

(4) The secretary of state shall not issue an official state personal identification card to an individual who holds an operator's or chauffeur's license issued under the Michigan vehicle code, 1949 PA 300, MCL 257.1 to 257.923, unless the license has been suspended, revoked, or restricted.

(5) If the applicant is not a citizen of the United States, the applicant shall provide, and the department shall verify, documents demonstrating the applicant's legal presence in the United States. Nothing in this act obligates this state to comply with title II of the real ID act of 2005, Public Law 109-13. The secretary of state may adopt rules under the administrative procedures act of 1969, 1969 PA 306, MCL 24.201 to 24.328, as are necessary for

the administration of this subsection. A determination by the secretary of state that an applicant is not legally present in the United States may be appealed under section 631 of the revised judicature act of 1961, 1961 PA 236, MCL 600.631. The secretary of state shall not issue an official state personal identification card to an applicant described in this subsection for a term that exceeds the duration of the applicant's legal presence in the United States.

(6) The secretary of state shall not disclose a Social Security number obtained under subsection (1) to another person except for use for 1 or more of the following purposes:

(a) Compliance with 49 USC 31301 to 31317 and regulations and rules related to this act.

(b) To carry out the purposes of section 466(a) of the social security act, 42 USC 666, in connection with matters relating to paternity, child support, or overdue child support.

(c) To the department of health and human services, for comparison with vital records maintained by the department of health and human services under part 28 of the public health code, 1978 PA 368, MCL 333.2801 to 333.2899.

(d) As otherwise required by law.

(7) The secretary of state shall not display an individual's Social Security number on the individual's official state personal identification card.

(8) A requirement under this section to include a Social Security number on an application does not apply to an applicant who demonstrates that the applicant is exempt under law from obtaining a Social Security number.

(9) The secretary of state, with the approval of the state administrative board created under 1921 PA 2, MCL 17.1 to 17.3, may enter into agreements with the United States government to verify whether an applicant for an official state personal identification card under this section who is not a citizen of the United States is authorized under federal law to be present in the United States.

(10) The secretary of state shall not issue an official state personal identification card to an individual holding an official state personal identification card issued by another state without confirmation that the individual is terminating or has terminated the official state personal identification card issued by the other state.

(11) The secretary of state shall do all of the following:

(a) Ensure the physical security of locations where official state personal identification cards are produced and the security of document materials and papers from which official state personal identification cards are produced.

(b) Subject each person authorized to manufacture or produce official state personal identification cards and each person who has the ability to affect the identity information that appears on official state personal identification cards to appropriate security clearance requirements. The security requirements of this subdivision and subdivision (a) may require that official state personal identification cards be manufactured or produced in this state.

(c) Provide fraudulent document recognition programs to secretary of state employees engaged in the issuance of official state personal identification cards.

(12) If an individual meets the requirements under subsection (13), beginning July 1, 2021, the secretary of state shall allow the individual to elect a communication impediment designation on the application maintained in the central file under section 7 or in another appropriate system that limits access to an individual allowed access to public record information by the criminal justice information policy council under the C.J.I.S. policy council act, 1974 PA 163, MCL 28.211 to 28.215, and that allows an individual with access to view a communication impediment designation with an official state personal identification card.

(13) An individual seeking an election for a communication impediment designation under subsection (12) shall provide the secretary of state a certification that meets all of the following:

(a) Is signed by a physician, physician assistant, certified nurse practitioner, audiologist, speech-language pathologist, psychologist, or physical therapist licensed to practice in this state.

(b) Identifies the individual for whom the communication impediment designation is being elected.

(c) Attests to the nature of the health condition that may impede communication.

(14) The secretary of state shall not display an individual's communication impediment designation on the individual's official state personal identification card.

(15) An individual who intentionally makes a false statement of material fact or commits or attempts to commit a deception or fraud on a statement described under subsection (13) is guilty of a misdemeanor punishable by imprisonment for not more than 30 days or a fine of not more than $500.00, or both.

(16) Subject to subsection (17), the secretary of state may cancel or revoke a communication impediment designation elected and maintained under this section if either of the following circumstances applies:

(a) The secretary of state determines that a communication impediment designation was fraudulently or erroneously elected.

(b) The secretary of state determines the communication impediment designation was abused during a traffic stop.

(17) The secretary of state shall provide an individual notice and an opportunity to be heard before canceling or revoking a communication impediment designation under subsection (16).

(18) As used in this section, "communication impediment" means an individual has a health condition that may impede communication with a police officer, including, but not limited to, any of the following:

(a) Deafness or hearing loss.
(b) An autism spectrum disorder.

History: 1972, Act 222, Imd. Eff. July 25, 1972 ;-- Am. 1975, Act 307, Eff. Jan. 1, 1976 ;-- Am. 1997, Act 99, Imd. Eff. Aug. 7, 1997 ;-- Am. 2005, Act 143, Imd. Eff. Sept. 29, 2005 ;-- Am. 2008, Act 31, Imd. Eff. Mar. 13, 2008 ;-- Am. 2011, Act 158, Imd. Eff. Sept. 30, 2011 ;-- Am. 2012, Act 25, Imd. Eff. Feb. 23, 2012 ;-- Am. 2018, Act 176, Eff. Sept. 9, 2018 ;-- Am. 2018, Act 605, Imd. Eff. Dec. 28, 2018 ;-- Am. 2020, Act 92, Eff. July 1, 2021 ;-- Am. 2020, Act 306, Imd. Eff. Dec. 29, 2020 ;-- Am. 2021, Act 105, Eff. Dec. 1, 2021 ;-- Am. 2023, Act 261, Eff. June 30, 2025

28.291a Definitions.

Sec. 1a.

As used in this act:
(a) "Highly restricted personal information" includes an individual's photograph or image, Social Security number, digitized signature, and medical and disability information and source documents presented by an applicant to obtain a personal identification card under section 1. Highly restricted personal information also includes the confidential address of an individual certified as a program participant in the address confidentiality program under the address confidentiality program act. As used in this subdivision, "confidential address" means that term as defined in section 3 of the address confidentiality program act.
(b) "Personal information" means information that identifies an individual, including the individual's photograph or image, name, address (but not the 5-digit zip code), driver license number, Social Security number, telephone number, digitized signature, and medical and disability information.
(c) "Residence address" means the place that is the settled home or domicile at which a person legally resides, which meets the definition of residence as defined in section 11 of the Michigan election law, 1954 PA 116, MCL 168.11.
(d) "Resident" means every person who resides in this state and establishes that he or she is legally present in the United States. This definition applies to the provisions of this act only.

History: Add. 1997, Act 99, Imd. Eff. Aug. 7, 1997 ;-- Am. 2008, Act 31, Imd. Eff. Mar. 13, 2008 ;-- Am. 2020, Act 306, Imd. Eff. Dec. 29, 2020

28.292 Official state personal identification card; contents; exception; duties of secretary of state; methods; form; emergency medical information card; fingerprint or finger image; retention and use of individual's digital photographic image; limitation; evidence of blindness; placement on donor registry; identifier for voter registration purposes; information; issuance; fees; expiration; renewal; waiver of fee; correction for change of name or address; application for renewal; other information; access to emergency information by law enforcement agencies; emancipated minor; participation in anatomical gift donor registry; validity; duplicate identification card; renewal; fees; pandemic extension and reimbursement for certain expirations; definitions.

Sec. 2.

(1) An official state personal identification card must contain the following:
(a) An identification number permanently assigned to the individual to whom the card is issued.
(b) Except as provided in section 2a, the full legal name, date of birth, sex, residence address, height, weight, eye color, digital photographic image, signature of or verification and certification by the applicant, as determined by the secretary of state, and expiration date of the official state personal identification card. If an official state personal identification card is issued to an individual described in section 1(5) who has temporary lawful status, the official state personal identification card must be issued in compliance with 6 CFR 37.21 or in compliance with the

process established to comply with 6 CFR 37.71 by the secretary of state. As used in this subdivision, "temporary lawful status" means that term as defined in 6 CFR 37.3.

(c) An indication that the identification card contains 1 or more of the following:

(i) The blood type of the individual.

(ii) Immunization data of the individual.

(iii) Medication data of the individual.

(iv) A statement that the individual is deaf.

(d) In the case of a holder of an official state personal identification card who has indicated his or her wish to participate in the anatomical gift donor registry under part 101 of the public health code, 1978 PA 368, MCL 333.10101 to 333.10123, a heart insignia on the front of the official state personal identification card.

(e) If requested by an individual who is a veteran as that term is defined in section 1 of 1965 PA 190, MCL 35.61, a designation that the individual is a veteran. The designation must be in a style and format considered appropriate by the secretary of state. The secretary of state shall require proof of discharge or separation of service from the armed forces of this state, another state, or the United States, and the nature of that discharge, for the purposes of verifying an individual's status as a veteran under this subdivision. The secretary of state shall consult with the department of military and veterans affairs in determining the proof that must be required to identify an individual's status as a veteran for the purposes of this subsection. The secretary of state may provide the department of military and veterans affairs and agencies of the counties of this state that provide veteran services with information provided by an applicant under this subsection for the purpose of veterans' benefits eligibility referral.

(f) Physical security features designed to prevent tampering, counterfeiting, or duplication of the official state personal identification card for fraudulent purposes.

(2) In conjunction with the application for an official state personal identification card, the secretary of state shall do all of the following:

(a) Provide the applicant with all of the following:

(i) Information explaining the applicant's right to make an anatomical gift in the event of death under part 101 of the public health code, 1978 PA 368, MCL 333.10101 to 333.10123, and in accordance with this section.

(ii) Information describing the donor registry program maintained by Michigan's federally designated organ procurement organization or its successor organization under section 10120 of the public health code, 1978 PA 368, MCL 333.10120. The information required under this subparagraph must include the address and telephone number of Michigan's federally designated organ procurement organization or its successor organization as described in section 10120 of the public health code, 1978 PA 368, MCL 333.10120.

(iii) Information giving the applicant the opportunity to have his or her name placed on the registry described in subparagraph (ii).

(b) Provide the applicant with the opportunity to specify on his or her official state personal identification card that he or she is willing to make an anatomical gift in the event of death under part 101 of the public health code, 1978 PA 368, MCL 333.10101 to 333.10123, and in accordance with this section.

(c) Inform the applicant that, if he or she indicates to the secretary of state under this section a willingness to have his or her name placed on the donor registry described in subdivision (a)(ii), the secretary of state will mark the applicant's record for the donor registry.

(3) The secretary of state may fulfill the requirements of subsection (2) by 1 or more of the following methods:

(a) Providing printed material enclosed with a mailed notice for the issuance or renewal of an official state personal identification card.

(b) Providing printed material to an applicant who personally appears at a secretary of state branch office.

(c) Through electronic information transmittals for applications processed by electronic means.

(4) The secretary of state shall prescribe the form of the official state personal identification card. The secretary of state shall designate a space on the official state personal identification card where the applicant may place a sticker or decal of a uniform size as the secretary may specify to indicate that the cardholder carries a separate emergency medical information card. The sticker or decal may be provided by any person, hospital, school, medical group, or association interested in assisting in implementing the emergency medical information card, but must meet the specifications of the secretary of state. The sticker or decal also may be used to indicate that the cardholder has designated 1 or more patient advocates in accordance with section 5506 of the estates and protected individuals code, 1998 PA 386, MCL 700.5506. The emergency medical information card, carried separately by the cardholder, may contain the information described in subsection (2)(c), information concerning the cardholder's patient advocate designation, other emergency medical information, or an indication as to where the cardholder has stored or registered emergency medical information. An original official state personal identification card or the renewal of an existing official state personal identification card issued to an individual less than 21 years of age must be portrait or vertical in form, and an official state personal identification card issued to an individual 21 years of age or over must be landscape or horizontal in form. Except as otherwise required in this act, other information required on the official state personal identification card under this act may appear on the official state personal identification card in a form prescribed by the secretary of state.

(5) The official state personal identification card must not contain a fingerprint or finger image of the applicant.

(6) Except as provided in this subsection, the secretary of state shall retain and use an individual's digital photographic image and signature described in subsection (1)(b) only for programs administered by the secretary of state as specifically authorized by law. An individual's digital photographic image or signature must only be used as follows:

(a) By a federal, state, or local governmental agency for a law enforcement purpose authorized by law.

(b) By the secretary of state for a use specifically authorized by law.

(c) By the secretary of state for forwarding to the department of state police the images of individuals required to be registered under the sex offenders registration act, 1994 PA 295, MCL 28.721 to 28.730, upon the department of state police providing the secretary of state an updated list of those individuals.

(d) By the secretary of state for forwarding to the department of state police a digitized photograph taken of the applicant for an official state personal identification card for use as provided in section 5c of 1927 PA 372, MCL 28.425c.

(e) By the secretary of state for forwarding to the department of licensing and regulatory affairs the images of applicants for an official state registry identification card issued under section 6 of the Michigan Medical Marihuana Act, 2008 IL 1, MCL 333.26426, if the department of licensing and regulatory affairs promulgates rules requiring a photograph as a design element for an official state registry identification card.

(f) As necessary to comply with a law of this state or the United States.

(7) If an individual presents evidence of statutory blindness as provided in 1978 PA 260, MCL 393.351 to 393.368, and is issued or is the holder of an official state personal identification card, the secretary of state shall mark the individual's official state personal identification card in a manner that clearly indicates that the cardholder is legally blind.

(8) The secretary of state shall maintain a record of an individual who indicates a willingness to have his or her name placed on the donor registry described in subsection (2)(a)(ii). Information about an individual's indication of a willingness to have his or her name placed on the donor registry that is obtained by the secretary of state and forwarded under this section is exempt from disclosure under section 13(1)(d) of the freedom of information act, 1976 PA 442, MCL 15.243. As required in section 10120 of the public health code, 1978 PA 368, MCL 333.10120, the secretary of state shall establish and maintain the donor registry in a manner that complies with that section and that provides electronic access, including, but not limited to, the transfer of data to this state's federally designated organ procurement organization or its successor organization, tissue banks, and eye banks.

(9) An official state personal identification card may contain an identifier for voter registration purposes.

(10) An official state personal identification card must contain information appearing in electronic or machine-readable codes needed to conduct a transaction with the secretary of state. The information must be limited to the information described in subsection (1)(a) and (b) except for the individual's digital photographic image and signature or verification and certification, state of issuance, and other information necessary for use with electronic devices, machine readers, or automatic teller machines and must not contain the individual's driving record or other personal identifier. The official state personal identification card must identify the encoded information.

(11) An official state personal identification card must be issued only upon authorization of the secretary of state, and must be manufactured in a manner to prohibit as nearly as possible the ability to reproduce, alter, counterfeit, forge, or duplicate the official state personal identification card without ready detection.

(12) Except as otherwise provided in this act, an applicant shall pay a fee of $10.00 to the secretary of state for each original or renewal official state personal identification card issued. The secretary of state shall not assess a late renewal fee for an official state personal identification card that expires on or after March 1, 2020 and is renewed before March 31, 2021. The secretary of state shall not assess a late renewal fee for an official state personal identification card that expires after March 31, 2021 but before August 1, 2021 and is renewed within 120 days after the date of the expiration. The secretary of state shall, upon an applicant's request, reimburse a late renewal fee assessed and collected for an official state personal identification card that expires after March 31, 2021 but before August 1, 2021 and is renewed within 120 days after the date of the expiration of the official state personal identification card. The department of treasury shall deposit the fees received and collected under this section in the state treasury to the credit of the general fund. The legislature shall appropriate the fees credited to the general fund under this act to the secretary of state for the administration of this act. Appropriations from the Michigan transportation fund created under section 10 of 1951 PA 51, MCL 247.660, must not be used to compensate the secretary of state for costs incurred and services performed under this section.

(13) An original or renewal official state personal identification card expires on the birthday of the individual to whom it is issued in the fourth year following the date of issuance or on the date the individual is no longer considered to be legally present in the United States under section 1, whichever is earlier. The secretary of state shall not issue an official state personal identification card under this act for a period greater than 4 years. Except as provided in this subsection, the secretary of state may issue a renewal official state personal identification card for 1 additional 4-year period or beginning on July 1, 2021, for 2 additional 4-year periods, by mail or by other methods prescribed by the secretary of state. The secretary of state shall require renewal in person by an individual required under section 5a of the sex offenders registration act, 1994 PA 295, MCL 28.725a, to maintain a valid operator's or

chauffeur's license or official state personal identification card.

(14) The secretary of state shall waive the fee under this section if the applicant is any of the following:

(a) An individual 65 years of age or older.

(b) An individual who has had his or her operator's or chauffeur's license suspended, revoked, or denied under the Michigan vehicle code, 1949 PA 300, MCL 257.1 to 257.923, because of a mental or physical infirmity or disability.

(c) An individual who presents evidence of statutory blindness as provided in 1978 PA 260, MCL 393.351 to 393.368.

(d) An individual who presents evidence of 1 or more of the following:

(i) A notice of case action from the department of health and human services indicating that the individual is a participant in 1 or both of the following programs and is making his or her application for an official state personal identification card during a period in which he or she is receiving benefits:

(A) The family independence program.

(B) The state disability assistance program.

(ii) A United States Social Security Administration benefit award letter indicating the applicant is currently receiving payments under the federal supplemental security income program as that term is defined in section 57 of the social welfare act, 1939 PA 280, MCL 400.57, or the Social Security disability income program.

(iii) A United States Social Security Administration benefit verification letter indicating the applicant is currently receiving payments under the federal supplemental security income program as that term is defined in section 57 of the social welfare act, 1939 PA 280, MCL 400.57, or the Social Security disability income program.

(e) An individual who decides to add or remove a heart insignia described in subsection (1)(d).

(f) An individual who is a veteran as that term is defined in section 1 of 1965 PA 190, MCL 35.61. The secretary of state shall require an individual who seeks a waiver of the fee under this subdivision to provide the secretary of state the same documentation required for a veteran designation under subsection (1)(e) before granting the fee waiver.

(g) An individual who presents both of the following:

(i) A homeless verification letter that states that the individual meets the definition of category 1 homeless as that term is defined by the United States Department of Housing and Urban Development. A letter provided as evidence under this subparagraph must be submitted on the official letterhead of a public service agency. The secretary of state may verify the information contained in the letter with the agency of issuance before issuing an official state personal identification card.

(ii) A photo identification card generated from the United States Department of Housing and Urban Development Homeless Management Information System.

(15) An individual who has been issued an official state personal identification card shall apply for a renewal official state personal identification card if the individual changes his or her name.

(16) An individual who has been issued an official state personal identification card shall apply for a corrected identification card if he or she changes his or her residence address. The secretary of state may correct the address on an official state personal identification card by a method prescribed by the secretary of state. A fee must not be charged for a change of residence address.

(17) An individual who has been issued an official state personal identification card may apply for a renewal official state personal identification card for 1 or more of the following reasons:

(a) The individual wants to change any information on the official state personal identification card.

(b) An official state personal identification card issued under this act is lost, destroyed, or mutilated, or becomes illegible.

(18) An individual may indicate on an official state personal identification card in a place designated by the secretary of state his or her blood type, emergency contact information, immunization data, medication data, or a statement that the individual is deaf.

(19) The secretary of state shall develop and shall, in conjunction with the department of state police, implement a process using the L.E.I.N. or any other appropriate system that limits access to law enforcement that allows law enforcement agencies of this state to access emergency contact information and, beginning July 1, 2021, to view a communication impediment designation that the holder of an official state personal identification card has voluntarily provided to the secretary of state.

(20) If an applicant provides proof to the secretary of state that he or she is a minor who has been emancipated under 1968 PA 293, MCL 722.1 to 722.6, the official state personal identification card must bear the designation of the individual's emancipated status in a manner prescribed by the secretary of state.

(21) The secretary of state shall inquire of each individual who applies for or who holds an official state personal identification card, in person or by mail, whether he or she agrees to participate in the anatomical gift donor registry under part 101 of the public health code, 1978 PA 368, MCL 333.10101 to 333.10123. An individual who has agreed to participate in the donor registry is not considered to have revoked that agreement solely because the individual's official state personal identification card has expired. Enrollment in the donor registry is a legal agreement that remains binding and in effect after the donor's death regardless of the expressed desires of the

deceased donor's next of kin who may oppose the donor's anatomical gift.

(22) A valid official state personal identification card presented by the individual to whom the card is issued is considered the same as a valid state of Michigan driver license when identification is requested except as otherwise specifically provided by law.

(23) Beginning July 1, 2021, if an official state personal identification card issued under this act is lost, destroyed, or mutilated, or becomes illegible, the individual to whom the official state personal identification card was issued may obtain a duplicate upon the payment of the fee required in subsection (24) and upon furnishing proof satisfactory to the secretary of state that the official state personal identification card has been lost, destroyed, or mutilated, or has become illegible.

(24) Except as otherwise provided in subsection (25), for each duplicate official state personal identification card, and for each correction of an official state personal identification card, beginning July 1, 2021, an individual may apply for renewal of the official state personal identification card and pay the renewal fee prescribed in this act or the individual may, at his or her option and upon payment of the fee prescribed in this section, apply for a duplicate official state personal identification card that expires on the same date as the official state personal identification card that was lost, destroyed, or mutilated, or became illegible. The fee for a duplicate official state personal identification card is $10.00. A renewal fee must not be charged for a change of address, a correction required to correct a department error, or to add or remove a heart insignia described in subsection (1)(d).

(25) Except with regard to an individual who is less than 21 years of age, for each duplicate official state personal identification card, and for each correction of an official state personal identification card, beginning July 1, 2021, an individual shall apply for renewal of the official state personal identification card and pay the renewal fee prescribed in this act if the official state personal identification card was due to expire within the next 12 months. Except as otherwise provided in this act, an official state personal identification card renewed under this subsection or subsection (24) must be renewed for the combined period of the time remaining on the official state personal identification card before its renewal and the 4-year renewal period.

(26) Notwithstanding subsection (13), an official state personal identification card that expires on or after March 1, 2020 is considered valid until March 31, 2021. Notwithstanding subsection (13), an official state personal identification card that expires after March 31, 2021 but before August 1, 2021 is considered valid until 120 days after the date of the expiration. If the secretary of state receives an application to renew an official state personal identification card that expires on or after March 1, 2020 before March 31, 2021, the secretary of state shall process the application as a renewal of an existing official state personal identification card. If the secretary of state receives an application to renew an official state personal identification card that expires after March 31, 2021 but before August 1, 2021, the secretary of state shall process the application as a renewal of an existing official state personal identification card until 120 days after the date of the expiration.

(27) As used in this section:

(a) "Communication impediment" means an individual has a health condition that may impede communication with a police officer, including, but not limited to, the following:

(i) Deafness or hearing loss.

(ii) An autism spectrum disorder.

(b) "Emergency contact information" means the name, telephone number, or address of an individual that is used for the sole purpose of contacting that individual when the holder of an official state personal identification card has been involved in an emergency.

History: 1972, Act 222, Imd. Eff. July 25, 1972 ;-- Am. 1975, Act 307, Eff. Jan. 1, 1976 ;-- Am. 1977, Act 286, Eff. Mar. 30, 1978 ;-- Am. 1980, Act 444, Imd. Eff. Jan. 15, 1981 ;-- Am. 1984, Act 335, Eff. Oct. 1, 1985 ;-- Am. 1986, Act 68, Imd. Eff. Apr. 7, 1986 ;-- Am. 1989, Act 125, Imd. Eff. June 28, 1989 ;-- Am. 1996, Act 204, Eff. Jan. 1, 1997 ;-- Am. 1997, Act 99, Imd. Eff. Aug. 7, 1997 ;-- Am. 1998, Act 2, Eff. July 1, 1998 ;-- Am. 1998, Act 118, Eff. July 3, 1998 ;-- Am. 1999, Act 89, Eff. Sept. 1, 1999 ;-- Am. 2001, Act 238, Imd. Eff. Jan. 3, 2002 ;-- Am. 2002, Act 553, Eff. Oct. 1, 2002 ;-- Am. 2003, Act 143, Eff. Oct. 1, 2003 ;-- Am. 2005, Act 143, Imd. Eff. Sept. 29, 2005 ;-- Am. 2008, Act 31, Imd. Eff. Mar. 13, 2008 ;-- Am. 2008, Act 40, Imd. Eff. Mar. 17, 2008 ;-- Am. 2011, Act 158, Imd. Eff. Sept. 30, 2011 ;-- Am. 2013, Act 28, Eff. May 1, 2014 ;-- Am. 2016, Act 5, Imd. Eff. Feb. 2, 2016 ;-- Am. 2016, Act 203, Eff. Sept. 20, 2016 ;-- Am. 2017, Act 31, Eff. Aug. 7, 2017 ;-- Am. 2018, Act 176, Eff. Sept. 9, 2018 ;-- Am. 2018, Act 584, Imd. Eff. Dec. 28, 2018 ;-- Am. 2018, Act 669, Eff. Mar. 29, 2019 ;-- Am. 2020, Act 92, Eff. July 1, 2021 ;-- Am. 2020, Act 128, Imd. Eff. July 1, 2020 ;-- Am. 2020, Act 242, Imd. Eff. Oct. 28, 2020 ;-- Am. 2020, Act 306, Imd. Eff. Dec. 29, 2020 ;-- Am. 2021, Act 73, Imd. Eff. July 29, 2021

Compiler's Notes: Enacting section 1 of Act 553 of 2002 provides:“Enacting section 1. There is appropriated from the amount provided in section 310(16) of the Michigan vehicle code, 1949 PA 300, MCL 257.310, a sufficient amount to carry out the provisions of the 2002 amendatory act that amended section 2 of 1972 PA 222, MCL 28.292, and the 2002 amendatory act that provided an appropriation in section 310 of the Michigan vehicle code, 1949 PA 300, MCL 257.310.”Enacting section 1 of Act 73 of 2021 provides:"Enacting section 1. Section 2(12) and (26) of 1972 PA 222, MCL 28.292, as amended by this amendatory act, is intended to be retroactive and apply retroactively."

28.292a Issuance of corrected official state personal identification card to certified address confidentiality program participant; renewal; definitions.

Sec. 2a.

(1) Beginning 180 days after the effective date of the amendatory act that added this section, upon receipt of a notice from the department of the attorney general that an individual who has been issued an official state personal identification card under this act has been certified as a program participant in the address confidentiality program, the secretary of state shall issue a corrected official state personal identification card to that individual by mailing the card to his or her designated address. Beginning 180 days after the effective date of the amendatory act that added this section, an official state personal identification card issued under this subsection or section 2 to a program participant must display the individual's designated address and must not display the individual's residence address.

(2) An individual who is issued a corrected official state personal identification card under this section shall destroy his or her old official state personal identification card and replace it with the corrected official state personal identification card.

(3) Beginning 180 days after the effective date of the amendatory act that added this section, an individual whose certification as a program participant in the address confidentiality program is renewed under the address confidentiality program act may renew an official state personal identification card issued under this section upon payment of the renewal fee under section 2.

(4) As used in this section:

(a) "Address confidentiality program" means a program as that term is defined in section 3 of the address confidentiality program act.

(b) "Designated address" means that term as defined in section 3 of the address confidentiality program act.

(c) "Program participant" means that term as defined in section 3 of the address confidentiality program act.

History: Add. 2020, Act 306, Imd. Eff. Dec. 29, 2020

28.293 False representation of information; violation as felony; additional violations; penalty; cancellation or return.

Sec. 3.

(1) A person who falsely represents information upon application for an official state personal identification card is guilty of a felony punishable by imprisonment for not less than 1 year but not more than 5 years, or by a fine of not less than $500.00 but not more than $5,000.00, or both.

(2) A person who is convicted of a second violation of this section is guilty of a felony punishable by imprisonment for not less than 2 years or more than 7 years, or by a fine of not less than $1,500.00 or more than $7,000.00, or both.

(3) A person who is convicted of a third or subsequent violation of this section is guilty of a felony punishable by imprisonment for not less than 5 years or more than 15 years, or by a fine of not less than $5,000.00 or more than $15,000.00, or both.

(4) The department may cancel the official state personal identification card of a person who violates this section. The person shall return his or her official state personal identification card upon the request or order of the department.

History: 1972, Act 222, Imd. Eff. July 25, 1972 ;-- Am. 1975, Act 307, Eff. Jan. 1, 1976 ;-- Am. 1977, Act 286, Eff. Mar. 30, 1978 ;-- Am. 1998, Act 2, Eff. July 1, 1998 ;-- Am. 2011, Act 158, Imd. Eff. Sept. 30, 2011

28.294 Forfeiture of card used or displayed during commission of crime.

Sec. 4.

An official state personal identification card used or displayed during the commission of a crime shall be forfeited to the secretary of state.

History: 1972, Act 222, Imd. Eff. July 25, 1972 ;-- Am. 1975, Act 307, Eff. Jan. 1, 1976 ;-- Am. 1977, Act 286, Eff. Mar. 30, 1978 ;-- Am. 1984, Act 335, Eff. Oct. 1, 1985

28.295 Conduct constituting felony or misdemeanor; penalties; exceptions; cancellation or return.

Sec. 5.

(1) A person who intentionally reproduces, alters, counterfeits, forges, or duplicates an official state personal identification card photograph, the negative of the photograph, an official state personal identification card image, an official state personal identification card, or the electronic data contained on an official state personal identification card or a part of an official state personal identification card or who uses an official state personal identification card, image, or photograph that has been reproduced, altered, counterfeited, forged, or duplicated is subject to 1 of the following:

(a) If the intent of reproduction, alteration, counterfeiting, forging, duplication, or use was to commit or aid in the commission of an offense that is a felony punishable by imprisonment for 10 or more years, the person committing the reproduction, alteration, counterfeiting, forging, duplication, or use is guilty of a felony punishable by imprisonment for not more than 10 years or a fine of not more than $20,000.00, or both.

(b) If the intent of the reproduction, alteration, counterfeiting, forging, duplication, or use was to commit or aid in the commission of an offense that is a felony punishable by imprisonment for less than 10 years or a misdemeanor punishable by imprisonment for 6 months or more, the person committing the reproduction, alteration, counterfeiting, forging, duplication, or use is guilty of a felony punishable by imprisonment for not more than 5 years, or a fine of not more than $10,000.00, or both.

(c) If the intent of the reproduction, alteration, counterfeiting, forging, duplication, or use was to commit or aid in the commission of an offense that is a misdemeanor punishable by imprisonment for less than 6 months, the person committing the reproduction, alteration, counterfeiting, forging, duplication, or use is guilty of a misdemeanor punishable by imprisonment for not more than 1 year or a fine of not more than $2,000.00, or both.

(2) A person who sells or possesses with the intent to deliver to another a reproduced, altered, counterfeited, forged, or duplicated official state personal identification card photograph, negative of the photograph, official state personal identification card image, official state personal identification card, or electronic data contained on an official state personal identification card or part of an official state personal identification card, or who possesses 2 or more reproduced, altered, counterfeited, forged, or duplicated official state identification card photographs, negatives of the photograph or photographs, image or images, official state identification card or cards, or electronic data contained on official state identification card or cards, is guilty of a felony punishable by imprisonment for not more than 5 years or a fine of not more than $10,000.00, or both.

(3) A person who is in possession of an altered, counterfeited, forged, or duplicated official state personal identification card photograph, negative of the photograph, official state personal identification card image, official state personal identification card, or electronic data contained on an official state personal identification card or part of an official state personal identification card is guilty of a misdemeanor punishable by imprisonment for not more than 1 year or a fine of not more than $2,000.00, or both.

(4) A person shall not steal or, without the cardholder's permission, knowingly take or knowingly remove an official state personal identification card from the person or possession of another. A person shall not use an official state personal identification card that is stolen or knowingly taken or knowingly removed from the person or possession of another. Except as provided in subsection (5), a person who violates this subsection is guilty of a misdemeanor, punishable by imprisonment for not more than 1 year.

(5) A person shall not use an official state personal identification card in the commission of a felony if the card is stolen or knowingly taken or knowingly removed from the person or possession of another. A person who violates this subsection is guilty of the penalties provided for the felony committed with the use of the card.

(6) Subsections (2) and (3) do not apply to a person who is in possession of 1 or more photocopies, reproductions, or duplications of an official state personal identification card or part of an official state personal identification card to document the person's identity for a legitimate business purpose.

(7) Subsections (1)(a) and (b) and (2) do not apply to a minor whose intent is to violate section 703 of the Michigan liquor control code of 1998, 1998 PA 58, MCL 436.1703.

(8) The department may cancel the official state personal identification card of a person who violates this section.

The person shall return his or her official state personal identification card upon the request or order of the department.

History: Add. 1977, Act 286, Eff. Mar. 30, 1978 ;-- Am. 1984, Act 335, Eff. Oct. 1, 1985 ;-- Am. 2004, Act 149, Eff. Sept. 1, 2004 ;-- Am. 2011, Act 158, Imd. Eff. Sept. 30, 2011

28.295a Prohibited conduct; violation as felony; penalties.

Sec. 5a.

(1) A person who makes a false representation or false certification to obtain personal information under this act, or who uses personal information for a purpose other than a permissible purpose identified in section 8 or 10, is guilty of a felony.

(2) A person who is convicted of a second violation of this section is guilty of a felony punishable by imprisonment for not less than 2 years or more than 7 years, or by a fine of not less than $1,500.00 or more than $7,000.00, or both.

(3) A person who is convicted of a third or subsequent violation of this section is guilty of a felony punishable by imprisonment for not less than 5 years or more than 15 years, or by a fine of not less than $5,000.00 or more than $15,000.00, or both.

History: Add. 1997, Act 99, Imd. Eff. Aug. 7, 1997

28.296 Availability of records to public.

Sec. 6.

Records maintained under this act, other than those declared to be confidential by law or which are restricted by law from disclosure to the public, shall be available to the public pursuant to procedures prescribed in this act, in the freedom of information act, 1976 PA 442, MCL 15.231 to 15.246, and in other applicable laws.

History: Add. 1997, Act 99, Imd. Eff. Aug. 7, 1997

28.297 Commercial look-up service; disposition of fees; computerized central file; providing file to nongovernmental person or entity.

Sec. 7.

(1) The secretary of state may provide a commercial look-up service of records maintained under this act. For each individual record looked up, the secretary of state shall charge a fee of $15.00. The secretary of state shall process a commercial look-up request only if the request is in a form or format as prescribed by the secretary of state. Until October 1, 2027, fees collected under this subsection must be credited to the transportation administration collection fund created in section 810b of the Michigan vehicle code, 1949 PA 300, MCL 257.810b.

(2) The secretary of state shall establish and maintain a computerized central file of the information contained on application forms received under this act. The computerized central file must be interfaced with the law enforcement information network as provided in the C.J.I.S. policy council act, 1974 PA 163, MCL 28.211 to 28.215.

(3) Except as provided in section 10(2), the secretary of state shall not provide an entire computerized central file or other file of records maintained under this act to a nongovernmental person or entity, unless the purchaser pays the prescribed fee for each individual record contained within the computerized file.

History: Add. 1997, Act 99, Imd. Eff. Aug. 7, 1997 ;-- Am. 2005, Act 172, Imd. Eff. Oct. 12, 2005 ;-- Am. 2009, Act 101, Imd. Eff. Sept. 30, 2009 ;-- Am. 2011, Act 158, Imd. Eff. Sept. 30, 2011 ;-- Am. 2015, Act 72, Eff. Oct. 1, 2015 ;-- Am. 2019, Act 80, Imd. Eff. Sept. 30, 2019 ;-- Am. 2023, Act 130, Eff. Oct. 1, 2023

28.298 Disclosure of personal information; uses.

Sec. 8.

(1) Except as provided in this section and in section 10, personal information in a record maintained under this act shall not be disclosed, unless the person requesting the information furnishes proof of identity satisfactory to the secretary of state and certifies that the personal information requested will be used for a permissible purpose identified in this section or in section 10. Highly restricted personal information shall be used and disclosed only as expressly permitted in section 2 or in another applicable provision of law.

(2) Personal information in a record maintained under this act shall be disclosed by the secretary of state if required to carry out the purposes of a specified federal law. As used in this section, "specified federal law" means the automobile information disclosure act, 15 USC 1231 to 1233, the former motor vehicle information and cost savings act, Public Law 92-513, the former national traffic and motor vehicle safety act of 1966, Public Law 89-563, the anti-car theft act of 1992, Public Law 102-519, the clean air act, chapter 360, 69 Stat. 322, and all federal regulations promulgated to implement these federal laws.

(3) Personal information in a record maintained under this act may be disclosed by the secretary of state as follows:

(a) For use by a federal, state, or local governmental agency, including a court or law enforcement agency, in carrying out the agency's functions, or by a private person or entity acting on behalf of a governmental agency in carrying out the agency's functions.

(b) For use in connection with matters of motor vehicle and driver safety or auto theft; motor vehicle emissions; motor vehicle product alterations, recalls, or advisories; performance monitoring of motor vehicles; motor vehicle market research activities, including survey research; and the removal of nonowner records from the original records of motor vehicle manufacturers.

(c) For use in the normal course of business by a legitimate business, including the agents, employees, and contractors of the business, but only to verify the accuracy of personal information submitted by an individual to the business or its agents, employees, or contractors, and if the information as so submitted is no longer correct, to obtain the correct information, for the sole purpose of preventing fraud by pursuing legal remedies against, or recovering on a debt against, the individual.

(d) For use in connection with a civil, criminal, administrative, or arbitral proceeding in a federal, state, or local court or governmental agency or before a self-regulatory body, including use for service of process, investigation in anticipation of litigation, and the execution or enforcement of judgments and orders, or pursuant to an order of a federal, state, or local court, an administrative agency, or a self-regulatory body.

(e) For use in legitimate research activities and in preparing statistical reports for commercial, scholarly, or academic purposes by a bona fide research organization, if the personal information is not published, redisclosed, or used to contact individuals.

(f) For use by an insurer or insurance support organization, or by a self-insured entity, or its agents, employees, or contractors, in connection with claims investigating activity, antifraud activity, rating, or underwriting.

(g) For use in providing notice to the owner of an abandoned, towed, or impounded vehicle.

(h) For use either by a private detective or private investigator licensed under the private detective license act, 1965 PA 285, MCL 338.821 to 338.851, or by a private security guard agency or alarm system contractor licensed under the private security business and security alarm act, 1968 PA 330, MCL 338.1051 to 338.1083, only for a purpose permitted under this section.

(i) For use by an employer, or the employer's agent or insurer, to obtain or verify information relating either to the holder of a commercial driver license that is required under the commercial motor vehicle safety act of 1986, Public Law 99-570, or to the holder of a chauffeur's license that is required under chapter 3 of the Michigan vehicle code, 1949 PA 300, MCL 257.301 to 257.329.

(j) For use by a car rental business, or its employees, agents, contractors, or service firms, for the purpose of making rental decisions.

(k) For use by a news medium in the preparation and dissemination of a report related in part or in whole to the operation of a motor vehicle or public safety. "News medium" includes a newspaper, a magazine or periodical published at regular intervals, a news service, a broadcast network, a television station, a radio station, a

cablecaster, or an entity employed by any of the foregoing.

(l) For any use by an individual requesting information pertaining to himself or herself or requesting in writing that the secretary of state provide information pertaining to himself or herself to the individual's designee. A request for disclosure to a designee, however, may be submitted only by the individual.

(4) Copies or images of source documents retained by the secretary of state under section 1 of this act and section 5 of the enhanced driver license and enhanced official state personal identification card act, MCL 28.305, may be used and disclosed for the purposes of subsection (3)(a) and (l).

History: Add. 1997, Act 99, Imd. Eff. Aug. 7, 1997 ;-- Am. 2008, Act 32, Imd. Eff. Mar. 13, 2008

28.299 Resale or redisclosure of information; duties of recipient.

Sec. 9.

(1) An authorized recipient of personal information disclosed under section 8 may resell or redisclose the information only for a use permitted under section 8.

(2) An authorized recipient of personal information disclosed under section 8 who resells or rediscloses the information shall do both of the following:

(a) Make and keep for a period of not less than 5 years records identifying each person who received personal information from the authorized recipient and the permitted use for which it was obtained.

(b) Allow a representative of the secretary of state, upon request, to inspect and copy records identifying each person who received personal information from the authorized recipient and the permitted use for which it was obtained.

History: Add. 1997, Act 99, Imd. Eff. Aug. 7, 1997

28.299a Application for official state identification card; examination and determination.

Sec. 9a.

The department must examine and determine the genuineness, regularity, and legality of every application for an official state identification card, and may in all cases investigate as the department considers necessary or require additional information. The department must reject any application for an official state identification card if not satisfied of the genuineness, regularity, or legality of the application or the truth of any statement contained in the application, or for any other reason when authorized by law.

History: Add. 2008, Act 32, Imd. Eff. Mar. 13, 2008 ;-- Am. 2020, Act 128, Imd. Eff. July 1, 2020

28.300 Furnishing list of information to federal, state, or local governmental agency; contract for sale of lists of records; surveys, marketing, and solicitations; insertion of safeguard in agreement or contract; duties of recipient of personal information; disclosure of list based on driving behavior or sanctions.

Sec. 10.

(1) Upon request, the secretary of state may furnish a list of information from the records of the department maintained under this act to a federal, state, or local governmental agency for use in carrying out the agency's functions, or to a private person or entity acting on behalf of a governmental agency for use in carrying out the agency's functions. Unless otherwise prohibited by law, the secretary of state may charge the requesting agency a preparation fee to cover the cost of preparing and furnishing a list provided under this subsection if the cost of

preparation exceeds $25.00, and use the revenues received from the service to defray necessary expenses. If the secretary of state sells a list of information under this subsection to a member of the state legislature, the secretary of state shall charge the same fee as the fee for the sale of information under subsection (2) unless the list of information is requested by the member of the legislature to carry out a legislative function. The secretary of state may require the requesting agency to furnish 1 or more blank computer tapes, cartridges, or other electronic media and may require the agency to execute a written memorandum of agreement as a condition of obtaining a list of information under this subsection.

(2) The secretary of state may contract for the sale of lists of records maintained under this act in bulk, in addition to those lists distributed at cost or at no cost under this section, for any of the purposes permitted under section 8(3). The secretary of state shall require each purchaser of information in bulk to execute a written purchase contract. The secretary of state shall fix a market-based price for the sale of lists of bulk information, which may include personal information. The proceeds from each sale shall be used by the secretary of state to defray the costs of list preparation and for other necessary or related expenses.

(3) The secretary of state or any other state agency shall not sell or furnish any list of information under subsection (2) for the purpose of surveys, marketing, and solicitations. The secretary of state shall ensure that personal information disclosed in bulk will be used, rented, or sold solely for uses permitted under this act.

(4) The secretary of state may insert any safeguard the secretary considers reasonable or necessary, including a bond requirement, in a memorandum of agreement or purchase contract executed under this section, to ensure that the information provided or sold is used only for a permissible use and that the rights of individuals and of the department are protected.

(5) An authorized recipient of personal information disclosed under this section who resells or rediscloses the information for any of the permissible purposes described in section 8(3) shall do both of the following:

(a) Make and keep for a period of not less than 5 years records identifying each person who received personal information from the authorized recipient and the permitted purpose for which it was obtained.

(b) Allow a representative of the secretary of state, upon request, to inspect and copy records identifying each person who received personal information from the authorized recipient and the permitted purpose for which it was obtained.

(6) The secretary of state shall not disclose a list based on driving behavior or sanctions to a nongovernmental agency, including an individual.

History: Add. 1997, Act 99, Imd. Eff. Aug. 7, 1997 ;-- Am. 2000, Act 193, Eff. Jan. 1, 2001

ENHANCED DRIVER LICENSE AND ENHANCED OFFICIAL STATE PERSONAL IDENTIFICATION CARD ACT

Act 23 of 2008

AN ACT to authorize the secretary of state to issue enhanced driver licenses and state personal identification cards to United States citizens who reside in Michigan to facilitate travel between the United States and Canada; to establish certain funds and prescribe duties for certain officials; and to prohibit certain conduct and prescribe penalties.

History: 2008, Act 23, Imd. Eff. Mar. 13, 2008

The People of the State of Michigan enact:

28.301 Short title.

Sec. 1.

This act shall be known and may be cited as the "enhanced driver license and enhanced official state personal identification card act".

History: 2008, Act 23, Imd. Eff. Mar. 13, 2008

Compiler's Notes: Former MCL 28.301 to 28.317, deriving from Act 114 of 1939 and pertaining to kerosene inspection, were repealed by Act 47 of 1952.

28.302 Definitions.

Sec. 2.

As used in this act:

(a) "Enhanced driver license" means an operator's or chauffeur's license issued to an individual under this act for the following purposes:

(i) Use in entering the United States at land and sea ports.

(ii) Use in the same manner as a standard driver license.

(b) "Enhanced official state personal identification card" means an official state personal identification card issued under this act to an individual who is a United States citizen who resides in this state for the following purposes:

(i) Use in entering the United States at land and sea ports.

(ii) Use in the same manner as a standard official state personal identification card.

(c) "Local government agency" means a county, city, village, or township in this state.

(d) "Resident" means every person who resides in this state and establishes that he or she is legally present in the United States. This definition applies to the provisions of this act only.

(e) "Resident address" means the place that is a person's legal residence as that term is defined in section 11 of the Michigan election law, 1954 PA 116, MCL 168.11.

(f) "Standard driver license" means an operator's license or chauffeur's license issued under the Michigan vehicle code, 1949 PA 300, MCL 257.1 to 257.923.

(g) "Standard official state personal identification card" means an official state personal identification card issued under 1972 PA 222, MCL 28.291 to 28.300.

History: 2008, Act 23, Imd. Eff. Mar. 13, 2008
Compiler's Notes: Former MCL 28.301 to 28.317, deriving from Act 114 of 1939 and pertaining to kerosene inspection, were repealed by Act 47 of 1952.

28.303 Memorandum of understanding with federal agency; agreement to implement border-crossing initiative.

Sec. 3.

(1) The secretary of state with the approval of the state administrative board created under 1921 PA 2, MCL 17.1 to 17.3, may enter into a memorandum of understanding with any federal agency for the purpose of obtaining approval of an enhanced driver license or enhanced official state personal identification card as proof of identity and citizenship for persons entering the United States at land and sea ports.

(2) In conjunction with a federal agency and with the approval of the state administrative board created under 1921 PA 2, MCL 17.1 to 17.3, the secretary of state may enter into an agreement with the United Mexican States, Canada, or a Canadian province for the purpose of implementing a border-crossing initiative.

History: 2008, Act 23, Imd. Eff. Mar. 13, 2008
Compiler's Notes: Former MCL 28.301 to 28.317, deriving from Act 114 of 1939 and pertaining to kerosene inspection, were repealed by Act 47 of 1952.

28.304 Enhanced driver license or enhanced official state personal identification card; issuance; security measures; radio frequency identification technology; requirements in addition to requirements for standard driver license or official state personal identification card; licensing sanction; issuance of corrected license or card for address confidentiality program participants; definitions.

Sec. 4.

(1) The secretary of state may issue an enhanced driver license or enhanced official state personal identification card to an applicant who provides satisfactory proof of the applicant's full legal name, United States citizenship, identity, date of birth, Social Security number, residence address, and a photographic identity document. Beginning June 27, 2021, if the applicant is a program participant in the address confidentiality program under the address confidentiality program act, 2020 PA 301, MCL 780.851 to 780.873, the applicant shall present to the secretary of state the applicant's participation card issued under the address confidentiality program act, 2020 PA 301, MCL 780.851 to 780.873. An applicant may choose to apply for a standard driver license or standard official state personal identification card or an enhanced driver license or enhanced official state personal identification card.

(2) An enhanced driver license or enhanced official state personal identification card must include reasonable security measures to protect against unauthorized disclosure of personal information regarding residents of this state that is contained in the enhanced driver license or enhanced official state personal identification card.

(3) An enhanced driver license or enhanced official state personal identification card may include radio frequency identification technology that is limited to a randomly assigned number that must be encrypted if agreed to by the United States Department of Homeland Security, and does not include biometric data. The secretary of state shall ensure that the radio frequency identification technology is secure from unauthorized data access and includes reasonable security measures to protect against unauthorized disclosure of personal information. An applicant must sign a declaration acknowledging the applicant's understanding of the radio frequency identification technology before the applicant is issued an enhanced driver license or enhanced official state personal identification card.

(4) An enhanced driver license or enhanced official state personal identification card that expires on or after March 1, 2020 is considered valid until March 31, 2021. An enhanced driver license or enhanced official state personal identification card that expires after March 31, 2021 but before August 1, 2021 is valid until 120 days after the date of the expiration.

(5) The requirements of this act are in addition to the requirements otherwise imposed on individuals who apply for a standard driver license or standard official state personal identification card.

(6) The holder of an enhanced driver license issued under this act is subject to every licensing sanction provided under the Michigan vehicle code, 1949 PA 300, MCL 257.1 to 257.923. As used in this subsection, "licensing sanction" means the restriction, suspension, revocation, or denial of a driver license; the addition of points to a driving record; the assessment of a civil fine or criminal penalty resulting from a conviction; a civil infraction determination; the imposition of probationary terms and conditions; or any other penalty provided under the Michigan vehicle code, 1949 PA 300, MCL 257.1 to 257.923.

(7) Beginning June 27, 2021, upon receipt of a notice from the department of the attorney general that an individual who has been issued an enhanced driver license or enhanced official state personal identification card under this act has been certified as a program participant in the address confidentiality program, the secretary of state shall issue a corrected enhanced driver license or enhanced official state personal identification card to that individual by mailing the license or card to the individual's designated address. Beginning June 27, 2021, an enhanced driver license or enhanced official state personal identification card issued under this subsection or subsection (1) to a program participant must display the individual's designated address and must not display the individual's residence address. The requirements of this subsection are in addition to the requirements for individuals who are issued a corrected standard driver license under section 310f of the Michigan vehicle code, 1949 PA 300, MCL 257.310f, or a corrected official state personal identification card under section 2a of 1972 PA 222, MCL 28.292a.

(8) As used in this section:

(a) "Address confidentiality program" means a program as that term is defined in section 3 of the address confidentiality program act, 2020 PA 301, MCL 780.853.

(b) "Designated address" means that term as defined in section 3 of the address confidentiality program act, 2020 PA 301, MCL 780.853.

(c) "Program participant" means that term as defined in section 3 of the address confidentiality program act, 2020 PA 301, MCL 780.853.

History: 2008, Act 23, Imd. Eff. Mar. 13, 2008 ;-- Am. 2018, Act 47, Imd. Eff. Mar. 1, 2018 ;-- Am. 2020, Act 129, Imd. Eff. July 1, 2020 ;-- Am. 2020, Act 243, Imd. Eff. Oct. 28, 2020 ;-- Am. 2020, Act 305, Imd. Eff. Dec. 29, 2020 ;-- Am. 2021, Act 72, Imd. Eff. July 29, 2021 ;-- Am. 2024, Act 114, Eff. Apr. 2, 2025

Compiler's Notes: Former MCL 28.301 to 28.317, deriving from Act 114 of 1939 and pertaining to kerosene inspection, were repealed by Act 47 of 1952.Enacting section 1 of Act 72 of 2021 provides:"Enacting section 1. Sections 4(4) and 6(2) and (8) of the enhanced driver license and enhanced official state personal identification card act, 2008 PA 23, MCL 28.304 and 28.306, as amended by this amendatory act, are intended to be retroactive and apply retroactively."

28.305 Items to be provided to secretary of state; facial image or signature; display of Social Security number or communication impediment designation prohibited; examination and verification of application and other documentation; rejection of application; retention of copies or digital images of documents or facial image; disclosure of digital images of documents; compilation or maintenance of database limited; communication impediment designation; revocation.

Sec. 5.

(1) An applicant who chooses to apply for an enhanced driver license or enhanced official state personal identification card shall provide all of the following items to the secretary of state in the manner prescribed by the secretary of state:

(a) A completed application indicating the applicant's full legal name, any legal name change resulting from the applicant's adoption, marriage, divorce, or a court order, date of birth, residence address, height, gender, eye color, Social Security number, signature, and, if applicable, the applicant's intention to be an organ donor as provided under section 307 of the Michigan vehicle code, 1949 PA 300, MCL 257.307, or section 2 of 1972 PA 222, MCL 28.292.

(b) Documentation demonstrating the applicant's United States citizenship, full legal name, any legal name change resulting from the applicant's adoption, marriage, divorce, or a court order, date of birth, residence address, and Social Security number.

(c) The applicant's signed certification that the information presented by the applicant is true and correct to the best of the applicant's knowledge.

(d) The fee prescribed under section 6.

(2) An applicant who applies for an enhanced driver license or enhanced official state personal identification card shall have the applicant's facial image and signature captured or reproduced by the secretary of state at the time of application. An individual's facial image or signature may be made available by this state and used as follows:

(a) By a federal, state, or local government agency for any law enforcement purpose authorized by law.

(b) By another state to the extent required by federal law.

(c) By the secretary of state for any purpose specifically authorized by law.

(d) By the secretary of state for forwarding to the department of state police for use as provided in section 5c of 1927 PA 372, MCL 28.425c.

(e) For any other purpose as determined by the secretary of state, if an individual provides the individual's written authorization for the release of the individual's own facial image or signature.

(f) As otherwise required by law.

(3) Except as otherwise provided under subsection (2), the secretary of state shall not disclose an individual's facial image, signature, Social Security number, or copies or digital images of documents retained under this act.

(4) An enhanced driver license or enhanced official state personal identification card issued under this act must not display an individual's Social Security number or, if applicable, a communication impediment designation on the face of the card.

(5) The secretary of state shall examine and verify the genuineness, regularity, and legality of every application and other documentation submitted to the secretary of state for an enhanced driver license or enhanced official state personal identification card, and may in all cases investigate as the secretary of state considers necessary or require additional information, and shall reject any application if not satisfied of the genuineness, regularity, and legality of the application or supporting documentation or the truth of any statement contained in the application or supporting documentation, or for any other reason authorized by law. A decision by the secretary of state to reject an application under this subsection may be appealed under section 631 of the revised judicature act of 1961, 1961 PA 236, MCL 600.631.

(6) The secretary of state shall retain copies or digital images of documents provided by the applicant to the secretary of state under this act.

(7) The facial image of an applicant for a license or card under this act who was not issued an enhanced driver license or enhanced official state personal identification card must be retained for not less than 1 year, unless fraud is suspected, in which case a record containing the applicant's facial image and the reason for denial must be retained for not less than 10 years.

(8) The secretary of state may disclose digital images of documents retained under this act to a federal, state, or local government agency for any law enforcement purpose authorized by law. Except as otherwise provided in this act, copies or digital images of documents retained under this act are exempt from disclosure under the freedom of information act, 1976 PA 442, MCL 15.231 to 15.246.

(9) The secretary of state shall not compile or maintain a database under this act that may be shared with a country other than the United States.

(10) The secretary of state shall, as provided under section 310 of the Michigan vehicle code, 1949 PA 300, MCL 257.310, and under section 1 of 1972 PA 222, MCL 28.291, allow an applicant for an enhanced driver license or enhanced official state personal identification card, as applicable, to elect a communication impediment designation and implement the process to allow an individual with authorized access to the law enforcement information network under the C.J.I.S. policy council act, 1974 PA 163, MCL 28.211 to 28.215, to view a communication impediment designation that the holder of an enhanced driver license or enhanced official state personal identification card has voluntarily provided to the secretary of state. The secretary of state may cancel or revoke a communication impediment designation elected and maintained under this section for the circumstances described under section 310(23) of the Michigan vehicle code, 1949 PA 300, MCL 257.310 and under section 1(16) of 1972 PA 222, MCL 28.291. The secretary of state shall provide the holder of an enhanced driver license or an enhanced official state personal identification card notice and an opportunity to be heard before canceling or revoking a communication impediment designation under this section.

History: 2008, Act 23, Imd. Eff. Mar. 13, 2008 ;-- Am. 2016, Act 422, Eff. Apr. 4, 2017 ;-- Am. 2018, Act 606, Imd. Eff. Dec. 28, 2018 ;-- Am. 2020, Act 94, Imd. Eff. June 23, 2020 ;-- Am. 2021, Act 106, Imd. Eff. Nov. 4, 2021 ;-- Am. 2023, Act 262, Eff. June 30, 2025
Compiler's Notes: Former MCL 28.301 to 28.317, deriving from Act 114 of 1939 and pertaining to kerosene inspection, were repealed by Act 47 of 1952.

28.306 Fees; late renewal fee exceptions; adequate in-person services.

Sec. 6.

(1) An application for an original enhanced driver license or enhanced official state personal identification card must be accompanied by payment of a fee of not more than $50.00.

(2) The renewal fee for an enhanced driver license or enhanced official state personal identification card renewed under this act must be not more than $50.00. Subject to subsection (9), if an enhanced driver license or enhanced official state personal identification card is expired at the time of renewal, the fee must be the same as the fee provided under subsection (1). If the secretary of state receives an application to renew an enhanced driver license or enhanced official state personal identification card that expires on or after March 1, 2020 before March 31, 2021, the secretary of state shall process the application as a renewal of an existing enhanced driver license or enhanced official state personal identification card. If the secretary of state receives an application to renew an enhanced driver license or enhanced official state personal identification card that expires after March 31, 2021 but before August 1, 2021, the secretary of state shall process the application as a renewal of an existing enhanced driver license or enhanced official state personal identification card until 120 days after the date of the expiration.

(3) Money from fees collected under subsections (1) and (2) must be deposited into the enhanced driver license and enhanced official state personal identification card fund created in section 7 after distribution as follows:

(a) The secretary of state shall refund to each county or municipality acting as an examining officer or examining bureau $2.50 for each applicant examined for an original enhanced driver license, if the application is not denied and the money refunded is paid to the county or local treasurer and is appropriated to the county, municipality, or officer or bureau receiving the money for the purpose of carrying out this act.

(b) The state treasurer shall deposit the sum of $4.00 to the traffic law enforcement and safety fund created in section 819a of the Michigan vehicle code, 1949 PA 300, MCL 257.819a, for each person examined for an original or renewal enhanced driver license.

(c) Four dollars and 50 cents of an original enhanced driver license and $6.00 of a renewal enhanced driver license must be appropriated to the transportation economic development fund established in section 2 of 1987 PA 231, MCL 247.902, and must not be appropriated for any other purpose in any act making appropriations of state funds.

(d) The money remaining after distributions are made under subdivisions (a) through (c) must remain in the enhanced driver license and enhanced official state personal identification card fund created under section 7.

(4) The secretary of state may assess a fee for issuing a duplicate or corrected enhanced driver license or enhanced official state personal identification card. A fee assessed under this subsection must not exceed the following amounts:

(a) Thirty dollars for an enhanced driver license that is an operator's license.

(b) Forty dollars for an enhanced driver license that is a chauffeur's license.

(c) Thirty dollars for an enhanced official state personal identification card.

(5) A fee must not be charged under subsection (4) for a change of address, to correct a departmental error, or

to add or remove a heart insignia described in section 310 of the Michigan vehicle code, 1949 PA 300, MCL 257.310.

(6) Fees collected under subsection (4) must be deposited to the enhanced driver license and enhanced official state personal identification card fund created under section 7.

(7) A fee paid under this section is nonrefundable, except for administrative error.

(8) Subject to subsection (9), the secretary of state shall not assess a late renewal fee for an enhanced driver license or enhanced official state personal identification card that expires on or after March 1, 2020 and is renewed before March 31, 2021. Subject to subsection (9), both of the following apply:

(a) The secretary of state shall not assess a late renewal fee for an enhanced driver license or enhanced official state personal identification card that expires after March 31, 2021 but before August 1, 2021 and is renewed within 120 days after the date of the expiration.

(b) The secretary of state shall, upon an applicant's request, reimburse a late renewal fee assessed and collected for an enhanced driver license or enhanced official state personal identification card that expires after March 31, 2021 but before August 1, 2021 and is renewed within 120 days after the date of the expiration of the enhanced driver license or enhanced official state personal identification card.

(9) Notwithstanding any other provision of this act, if on the effective date of this amendatory act, the secretary of state does not provide adequate in-person services, the secretary of state shall not assess a late renewal fee under this act until the secretary of state resumes providing adequate in-person services. As used in this subsection, "adequate in-person services" means providing in-person service options, without the requirement of an advance appointment, on each day and at each location a secretary of state branch office is open for services in this state. The in-person services provided must allow for same-day transactions to be completed.

History: 2008, Act 23, Imd. Eff. Mar. 13, 2008 ;-- Am. 2009, Act 211, Imd. Eff. Jan. 4, 2010 ;-- Am. 2020, Act 129, Imd. Eff. July 1, 2020 ;-- Am. 2020, Act 243, Imd. Eff. Oct. 28, 2020 ;-- Am. 2020, Act 374, Imd. Eff. Jan. 4, 2021 ;-- Am. 2021, Act 72, Imd. Eff. July 29, 2021
Compiler's Notes: Former MCL 28.301 to 28.317, deriving from Act 114 of 1939 and pertaining to kerosene inspection, were repealed by Act 47 of 1952.Enacting section 1 of Act 72 of 2021 provides:"Enacting section 1. Sections 4(4) and 6(2) and (8) of the enhanced driver license and enhanced official state personal identification card act, 2008 PA 23, MCL 28.304 and 28.306, as amended by this amendatory act, are intended to be retroactive and apply retroactively."

28.307 Enhanced driver license and enhanced official state personal identification card fund; creation; disposition of money and assets; investment; money remaining at close of fiscal year; secretary of state as administrator; expenditure.

Sec. 7.

(1) The enhanced driver license and enhanced official state personal identification card fund is created within the state treasury.

(2) The state treasurer may receive money or other assets from any source for deposit into the fund. The state treasurer shall direct the investment of the fund.

(3) Money in the fund at the close of the fiscal year shall remain in the fund and shall not lapse to the general fund.

(4) The secretary of state shall be the administrator of the fund for auditing purposes.

(5) The secretary of state shall expend money from the fund, upon appropriation, to pay the necessary expenses incurred by the secretary of state in the administration and enforcement of this act.

History: 2008, Act 23, Imd. Eff. Mar. 13, 2008
Compiler's Notes: Former MCL 28.301 to 28.317, deriving from Act 114 of 1939 and pertaining to kerosene inspection, were repealed by Act 47 of 1952.

28.308 Conduct as felony; penalty.

Sec. 8.

A person who makes a false certification or statement in applying for an enhanced driver license or enhanced official state personal identification card is guilty of a felony punishable by imprisonment for not more than 5 years or a fine of not more than $5,000.00, or both.

History: 2008, Act 23, Imd. Eff. Mar. 13, 2008
Compiler's Notes: Former MCL 28.301 to 28.317, deriving from Act 114 of 1939 and pertaining to kerosene inspection, were repealed by Act 47 of 1952.

DISPOSITION OF STOLEN PROPERTY

Act 203 of 1937

AN ACT to provide for the disposition and sale of stolen property recovered by the Michigan state police; and to provide for the disposition of the proceeds of sale.

History: 1937, Act 203, Eff. Oct. 29, 1937

The People of the State of Michigan enact:

28.401 Stolen property recovered by state police; holding period.

Sec. 1.

The provisions of this act shall apply to any stolen money or other property recovered by the Michigan state police which shall not be claimed within 6 months after said recovery.

History: 1937, Act 203, Eff. Oct. 29, 1937 ;-- CL 1948, 28.401

28.402 Stolen property recovered and unclaimed; report to state administrative board.

Sec. 2.

Forthwith after the expiration of said 6 months period, the commissioner of the Michigan state police shall report to the state administrative board, listing the money or other property so recovered and held, and requesting authority from the state administrative board to turn any money over to the state treasurer to be credited to the general fund and requesting authority from the state administrative board to sell at public sale any other property so recovered and held.

History: 1937, Act 203, Eff. Oct. 29, 1937 ;-- CL 1948, 28.402

28.403 Stolen property; authority for sale; publication of notice.

Sec. 3.

The state administrative board shall act on the request of the commissioner of the Michigan state police within 6 months after the receipt of such request. In case authority is granted to the commissioner of the Michigan state police to turn any money so recovered and held over to the state treasurer or to sell any other property so

recovered and held, the commissioner of the Michigan state police shall post 3 notices in the county in which the stolen money or other property was recovered, and also publish notice in a newspaper of general circulation in such county by insertions in 2 issues of said newspaper. Said notice shall describe the money so recovered and held and also the other property so recovered and held, together with the time and place of public sale at which said other property may be purchased by the highest bidder. Up until the said date of sale, the money or other property may be claimed at the East Lansing post of the Michigan state police, and if ownership is proved, such money or other property shall be turned over to the claimant, and the sale cancelled insofar as such property is concerned.

History: 1937, Act 203, Eff. Oct. 29, 1937 ;-- CL 1948, 28.403

28.404 Stolen property; receipts from sale credited to general fund.

Sec. 4.

After the holding of any such sale, the money received from such sale, after deducting the cost of the conducting thereof, and any other money recovered and held included in the notice provided for in section 3, shall be turned over to the state treasurer to be credited to the general fund of the state.

History: 1937, Act 203, Eff. Oct. 29, 1937 ;-- CL 1948, 28.404

28.405 Stolen property; claim invalid after notice and sale.

Sec. 5.

Except as provided in section 6 hereof, no claim shall be valid to obtain any money or other property recovered by the Michigan state police, after notice and sale as provided in section 3 of this act, said property and money being considered as abandoned and belonging to the state of Michigan.

History: 1937, Act 203, Eff. Oct. 29, 1937 ;-- CL 1948, 28.405

28.406 Stolen property; claim proved after notice and sale.

Sec. 6.

Provided, however, That the owner of the stolen property may prove his claim by proving the identity of the property and be reimbursed from the state treasurer in an amount not to exceed the amount paid for such goods at said sale, if such proof is accepted by the administrative board after the sale: Provided, however, That such claim shall have been filed with the state administrative board not later than 6 months after such sale.

History: 1937, Act 203, Eff. Oct. 29, 1937 ;-- CL 1948, 28.406

REPORT OF STOLEN AND RECOVERED PROPERTY

Act 294 of 1945

AN ACT to provide for the reporting of certain stolen and recovered personal property to the Michigan state police; and to prescribe the powers and duties of the Michigan state police and law enforcement officers with

respect thereto.

History: 1945, Act 294, Eff. Sept. 6, 1945

The People of the State of Michigan enact:

28.411 Stolen and recovered personal property; report to state police, form.

Sec. 1.

It shall be the duty of all law enforcement officers to report to the Michigan state police all stolen and all recovered personal property of a value of $25.00 or over: Provided, That a report shall not be required with respect to personal property recovered, and the owner thereof known, within 48 hours of the receipt of the report of such stolen personal property. Such reports shall be made upon forms prescribed and furnished by the Michigan state police, within 48 hours of the receipt of the report of such stolen or recovered personal property.

History: 1945, Act 294, Eff. Sept. 6, 1945 ;-- CL 1948, 28.411

28.412 Stolen and recovered personal property; records and files maintained.

Sec. 2.

The commissioner of the Michigan state police shall maintain adequate records and files with respect to such stolen and recovered personal property, and shall report the recovery thereof to the law enforcement officer reporting the personal property as stolen. Such records and files shall be available to law enforcement officers.

History: 1945, Act 294, Eff. Sept. 6, 1945 ;-- CL 1948, 28.412

28.413 Motor vehicles excepted from act.

Sec. 3.

The provisions of this act shall not cover or apply to stolen and recovered motor vehicles.

History: 1945, Act 294, Eff. Sept. 6, 1945 ;-- CL 1948, 28.413

FIREARMS

Act 372 of 1927

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.

History: 1927, Act 372, Eff. Sept. 5, 1927 ;-- Am. 1929, Act 206, Imd. Eff. May 20, 1929 ;-- Am. 1931, Act 333, Imd. Eff. June 16, 1931 ;-- Am. 1980, Act 345, Eff. Mar. 31, 1981 ;-- Am. 1990, Act 320, Eff. Mar. 28, 1991 ;-- Am. 2000, Act 265, Imd. Eff. June 29, 2000 ;-- Am. 2000, Act 381, Eff. July 1, 2001 ;-- Am. 2012, Act 123, Eff. Aug. 6, 2012
Popular Name: CCW
Popular Name: Concealed Weapons
Popular Name: CPL
Popular Name: Right to Carry
Popular Name: Shall Issue

The People of the State of Michigan enact:

28.421 Definitions; lawful owning, possessing, carrying, or transporting of pistol greater than 26 inches in length; conditions; firearm not considered as pistol; election.

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

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

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

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

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

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

(k) "Reserve peace officer", "auxiliary officer", or "reserve officer" means, except as otherwise provided in this act, an individual authorized on a voluntary or irregular basis by a duly authorized police agency of this state or a political subdivision of this state to act as a law enforcement officer, who is responsible for the preservation of the peace, the prevention and detection of crime, and the enforcement of the general criminal laws of this state, and who is otherwise eligible to possess a firearm under this act.

(l) "Retired corrections officer of the department of corrections" means an individual who was a corrections officer of the department of corrections and who retired in good standing from the individual's employment as a corrections officer of the department of corrections.

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

(n) "Retired parole or probation officer of the department of corrections" means an individual who was a parole or probation officer of the department of corrections and who retired in good standing from the individual's employment as a parole or probation officer of the department of corrections.

(o) "Retired police officer" or "retired law enforcement officer" means an individual who was a police officer or law enforcement officer who was licensed or certified as described in the Michigan commission on law enforcement standards act, 1965 PA 203, MCL 28.601 to 28.615, and retired in good standing from the individual's employment as a police officer or law enforcement officer. A police officer or law enforcement officer retired in good standing if the individual receives a pension or other retirement benefit for the individual's service as a police officer or law enforcement officer or actively maintained a Michigan commission on law enforcement standards or equivalent state certification or license from this state or another state for not less than 10 consecutive years.

(p) "Seller" means a person who sells or gives a firearm to another person.

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

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

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

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

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

(c) The person possesses a copy of the license or record issued to the person under section 2 or 2a.

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

History: 1927, Act 372, Eff. Sept. 5, 1927 ;-- CL 1929, 16749 ;-- CL 1948, 28.421 ;-- Am. 1964, Act 216, Eff. Aug. 28, 1964 ;-- Am. 1992, Act 219, Imd. Eff. Oct. 13, 1992 ;-- Am. 2000, Act 381, Eff. July 1, 2001 ;-- Am. 2002, Act 719, Eff. July 1, 2003 ;-- Am. 2008, Act 407, Eff. Apr. 6, 2009 ;-- Am. 2012, Act 243, Eff. Jan. 1, 2013 ;-- Am. 2014, Act 203, Eff. Dec. 21, 2014 ;-- Am. 2015, Act 3, Eff. Dec. 1, 2015 ;-- Am. 2015, Act 16, Eff. July 13, 2015 ;-- Am. 2015, Act 25, Eff. July 1, 2015 ;-- Am. 2015, Act 207, Eff. Dec. 1, 2015 ;-- Am. 2016, Act 301, Eff. Jan. 2, 2017 ;-- Am. 2017, Act 95, Eff. Oct. 11, 2017 ;-- Am. 2023, Act 19, Eff. Feb. 13, 2024
Popular Name: CCW
Popular Name: Concealed Weapons
Popular Name: CPL
Popular Name: Right to Carry
Popular Name: Shall Issue

28.421a Concealed pistol licenses; issuance; creation of standardized system.

Sec. 1a.

It is the intent of the legislature to create a standardized system for issuing concealed pistol licenses to prevent criminals and other violent individuals from obtaining a license to carry a concealed pistol, to allow law abiding residents to obtain a license to carry a concealed pistol, and to prescribe the rights and responsibilities of individuals who have obtained a license to carry a concealed pistol. It is also the intent of the legislature to grant an applicant the right to know why his or her application for a concealed pistol license is denied and to create a process by which an applicant may appeal that denial.

History: Add. 2000, Act 381, Eff. July 1, 2001
Popular Name: CCW
Popular Name: Concealed Weapons
Popular Name: CPL
Popular Name: Right to Carry
Popular Name: Shall Issue

28.421b Firearms records; confidentiality; disclosure prohibited; exceptions; violation as civil infraction; fine.

Sec. 1b.

(1) Firearms records are confidential, are not subject to disclosure under the freedom of information act, 1976 PA 442, MCL 15.231 to 15.246, and shall not be disclosed to any person, except as otherwise provided by this section.

(2) Firearms records may only be accessed and disclosed by a peace officer or authorized system user for the following purposes:

(a) The individual whose firearms records are the subject of disclosure poses a threat to himself or herself or other individuals, including a peace officer.

(b) The individual whose firearms records are the subject of disclosure has committed an offense with a pistol that violates a law of this state, another state, or the United States.

(c) The pistol that is the subject of the firearms records search may have been used during the commission of an offense that violates a law of this state, another state, or the United States.

(d) To ensure the safety of a peace officer.

(e) For purposes of this act.

(f) A peace officer or an authorized user has reason to believe that access to the firearms records is necessary within the commission of his or her lawful duties. The peace officer or authorized system user shall enter and record the specific reason in the system in accordance with the procedures in section 5e.

(3) A person who intentionally violates subsection (2) is responsible for a state civil infraction and may be ordered to pay a civil fine of not more than $500.00.

History: Add. 2014, Act 202, Eff. Dec. 21, 2014
Popular Name: CCW
Popular Name: Concealed Weapons
Popular Name: CPL
Popular Name: Right to Carry
Popular Name: Shall Issue

28.422 License to purchase, carry, possess, or transport pistol or to purchase a firearm; issuance; qualifications; applications; sale of firearm; exemptions; transfer of ownership to heir or devisee; nonresident; active duty status; forging application as felony; implementation during business hours.

Sec. 2.

(1) Except as otherwise provided in this act, a person shall not do either of the following:

(a) Purchase, carry, possess, or transport a pistol in this state without first having obtained a license for the pistol as prescribed in this section.

(b) Purchase a firearm that is not a pistol in this state without first having obtained a license for the firearm as prescribed in this section. This subdivision does not apply to the purchase or acquisition of a firearm that occurred before the effective date of the amendatory act that added this subdivision.

(2) An individual who brings a firearm into this state who is on leave from active duty with the Armed Forces of the United States or who has been discharged from active duty with the Armed Forces of the United States shall obtain a license for the firearm not later than 30 days after the individual arrives in this state.

(3) The commissioner or chief of police of a city, township, or village police department who issues licenses to purchase, carry, possess, or transport firearms, or the commissioner's or chief's duly authorized deputy, or the sheriff or the sheriff's duly authorized deputy, in the parts of a county not included in a city, township, or village having an organized police department, in discharging the duty to issue licenses shall with due speed and diligence issue licenses to purchase, carry, possess, or transport firearms to qualified applicants unless the individual has probable cause to believe that the applicant would be a threat to the applicant or to other individuals, or would commit an offense with the firearm that would violate a law of this or another state or of the United States. An applicant is qualified if all of the following circumstances exist:

(a) The individual is not subject to an order or disposition for which the individual has received notice and an opportunity for a hearing, and that was entered into the law enforcement information network under any of the following:

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

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

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

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

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

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

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

(viii) The extreme risk protection order act.

(b) The individual is 18 years of age or older or, if the firearm is a pistol and the seller is licensed under 18 USC 923, is 21 years of age or older.

(c) The individual is a citizen of the United States or an alien lawfully admitted into the United States and is a legal resident of this state. For the purposes of this section, an individual is considered a legal resident of this state if any of the following apply:

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

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

(iii) The individual is on active duty status with the Armed Forces of the United States and is stationed outside of this state, but the individual's home of record is in this state.

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

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

(e) The 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 individual has not been adjudged insane in this state or elsewhere unless the individual has been adjudged restored to sanity by court order.

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

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

(4) An applicant for a license under this section shall sign the application under oath on a form provided by the director of the department of state police. A licensing authority shall issue a license to purchase, carry, possess, or transport firearms in triplicate on a form provided by the director of the department of state police. The licensing authority shall sign any license issued under this section. The licensing authority shall deliver 3 copies of the license to the applicant. A license is void unless used within 30 days after the date it is issued.

(5) If an individual purchases or otherwise acquires a firearm, the seller shall fill out the license forms describing the firearm, together with the date of sale or acquisition, and sign the seller's name in ink indicating that the firearm was sold to or otherwise acquired by the purchaser. The purchaser shall also sign the purchaser's name in ink indicating the purchase or other acquisition of the firearm from the seller. The seller may retain a copy of the license as a record of the transaction, shall provide a copy of the license to the purchaser, and, if the firearm is a pistol, shall return 1 copy of the license to the licensing authority not later than 10 days after the date the pistol is purchased or acquired. The seller shall return the copy to the licensing authority in person or by first-class mail or certified mail sent in the 10-day period to the proper address of the licensing authority. A seller who fails to comply with the requirements of this subsection is responsible for a state civil infraction and may be fined not more than $250.00. If a seller is found responsible for a state civil infraction under this subsection, the court shall notify the department of state police of that determination.

(6) Not later than 10 days after receiving the license copy for a pistol returned under subsection (5), the licensing authority shall electronically enter the information into the pistol entry database as required by the department of state police if the licensing authority has the ability to electronically enter that information. If the licensing authority 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. Not later than 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 may 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 the licensee is in possession of a copy of the license. However, the licensee is not required to have the license in the licensee's possession while carrying, using, possessing, or transporting the pistol after this period.

(7) This section does not apply to the purchase of firearms from wholesalers by dealers regularly engaged in the

business of selling firearms at retail, or to the sale, barter, or exchange of firearms 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 entered into the pistol entry database. An individual who has inherited a firearm shall obtain a license as required in this section not later than 30 days after taking physical possession of the firearm. The license may be signed by a next of kin of the decedent or the person authorized to dispose of property under the estates and protected individuals code, 1998 PA 386, MCL 700.1101 to 700.8206, including when the next of kin is the individual inheriting the firearm. If the heir or devisee is not qualified for a license under this section, the heir or devisee may direct the next of kin or person authorized to dispose of property under the estates and protected individuals code, 1998 PA 386, MCL 700.1101 to 700.8206, to dispose of the firearm in any manner that is lawful and the heir or devisee considers appropriate. The person authorized to dispose of property under the estates and protected individuals code, 1998 PA 386, MCL 700.1101 to 700.8206, is not required to obtain a license under this section if the person takes temporary lawful possession of the firearm in the process of disposing of the firearm pursuant to the decedent's testamentary bequest or the laws of intestacy. A law enforcement agency may not seize or confiscate a firearm being transferred by testamentary bequest or the laws of intestacy unless the heir or devisee does not qualify for obtaining a license under this section and the next of kin or person authorized to dispose of property under the estates and protected individuals code, 1998 PA 386, MCL 700.1101 to 700.8206, is unable to retain temporary possession of the firearm or find alternative lawful storage. If a law enforcement agency seizes or confiscates a firearm under this subsection, the heir or devisee who is not qualified to obtain a license under this section retains ownership interest in the firearm and, not later than 30 days after being notified of the seizure or confiscation, may file with a court of competent jurisdiction to direct the law enforcement agency to lawfully transfer or otherwise dispose of the firearm. The seizing entity or its agents shall not destroy, sell, or use a firearm seized under this subsection until 30 days have passed since the heir or devisee has been notified of the seizure and no legal action regarding the lawful possession or ownership of the seized firearm has been filed in any court and is pending. As used in this subsection:

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

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

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

(a) The individual is licensed in the individual's state of residence to purchase, carry, or transport a pistol.

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

(c) The individual is the owner of the pistol the individual possesses, carries, or transports.

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

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

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

(11) The licensing authority may require an individual claiming active duty status with the Armed Forces of the United States to provide proof of 1 or both of the following:

(a) The individual's home of record.

(b) Permanent active duty assignment in this state.

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

(a) The individual is not otherwise prohibited from possessing that pistol and all of the following apply:

(i) The individual is at a recognized target range.

(ii) The individual possesses the pistol for the purpose of target practice or instruction in the safe use of a pistol.

(iii) The individual is in the physical presence and under the direct supervision of any of the following:

(A) The individual's parent.

(B) The individual's guardian.

(C) An individual who is 21 years of age or older, who is authorized by the 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.

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

(b) The individual is not otherwise prohibited from possessing that pistol, the individual possesses the pistol for the purpose of hunting, and the individual is in compliance with all applicable hunting laws.

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

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

(b) The individual is at a recognized target range or shooting facility.

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

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

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

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

History: 1927, Act 372, Eff. Sept. 5, 1927 ;-- CL 1929, 16750 ;-- Am. 1931, Act 333, Imd. Eff. June 16, 1931 ;-- Am. 1941, Act 112, Imd. Eff. May 21, 1941 ;-- Am. 1943, Act 51, Imd. Eff. Mar. 30, 1943 ;-- CL 1948, 28.422 ;-- Am. 1949, Act 170, Eff. Sept. 23, 1949 ;-- Am. 1957, Act 259, Eff. Sept. 27, 1957 ;-- Am. 1964, Act 216, Eff. Aug. 28, 1964 ;-- Am. 1967, Act 158, Eff. Nov. 2, 1967 ;-- Am. 1968, Act 301, Eff. Nov. 15, 1968 ;-- Am. 1972, Act 15, Imd. Eff. Feb. 19, 1972 ;-- Am. 1986, Act 161, Eff. Aug. 1, 1986 ;-- Am. 1990, Act 320, Eff. Mar. 28, 1991 ;-- Am. 1992, Act 219, Imd. Eff. Oct. 13, 1992 ;-- Am. 1992, Act 220, Imd. Eff. Oct. 13, 1992 ;-- Am. 1994, Act 338, Eff. Apr. 1, 1996 ;-- Am. 2004, Act 101, Imd. Eff. May 13, 2004 ;-- Am. 2008, Act 195, Eff. Jan. 7, 2009 ;-- Am. 2008, Act 406, Imd. Eff. Jan. 6, 2009 ;-- Am. 2010, Act 20, Imd. Eff. Mar. 25, 2010 ;-- Am. 2012, Act 377, Imd. Eff. Dec. 18, 2012 ;-- Am. 2014, Act 201, Imd. Eff. June 24, 2014 ;-- Am. 2015, Act 37, Imd. Eff. May 21, 2015 ;-- Am. 2015, Act 200, Eff. Feb. 22, 2016 ;-- Am. 2023, Act 19, Eff. Feb. 13, 2024 ;-- Am. 2023, Act 37, Eff. Feb. 13, 2024

Constitutionality: The Michigan Court of Appeals held in Chan v City of Troy, 220 Mich App 376; 559 NW2d 374 (1997), that the citizen requirement, now MCL 28.422(3)(c), for a permit to purchase a pistol contained in MCL 28.422(3)(b) violates the Equal Protection Clause of the Fourteenth Amendment to the United States Constitution and is unconstitutional.

Popular Name: CCW

Popular Name: Concealed Weapons

Popular Name: CPL

Popular Name: Right to Carry

Popular Name: Shall Issue

28.422a Individuals not required to obtain license; duties of seller; background check; noncompliance as state civil infraction; penalty; entering information into pistol entry database; obtaining copy of information; exemption; material false statement as felony; penalty; rules; verification; definitions.

Sec. 2a.

(1) The following individuals are not required to obtain a license under section 2 to purchase, carry, possess, use, or transport a firearm:

(a) An individual licensed under section 5b, except for an individual who has an emergency license issued under section 5a(4) or a receipt serving as a concealed pistol license under section 5b(9) or 5l(3).

(b) A federally licensed firearms dealer.

(c) An individual currently employed as a police officer who is licensed or certified under the Michigan commission on law enforcement standards act, 1965 PA 203, MCL 28.601 to 28.615.

(d) An individual purchasing a firearm other than a pistol who has a federal national instant criminal background check performed on the individual by a federally licensed firearms dealer not more than 5 days before the purchase.

(2) If an individual described in subsection (1) purchases or otherwise acquires a firearm, the seller shall complete a record in triplicate on a form provided by the department of state police that includes the purchaser's concealed weapon license number, the number of the purchaser's license or certificate issued under the Michigan commission on law enforcement standards act, 1965 PA 203, MCL 28.601 to 28.615, or, if the purchaser is a federally licensed firearms dealer, the purchaser's dealer license number. If the purchaser is not licensed under section 5b or does not have a license or certificate issued under the Michigan commission on law enforcement standards act, 1965 PA 203, MCL 28.601 to 28.615, and is not a federally licensed firearms dealer, the record must include the dealer license number of the federally licensed firearms dealer that performed the federal national instant criminal background check. The purchaser shall sign the record. The seller may retain 1 copy of the record, shall provide a copy of the record to the purchaser, and, if the firearm is a pistol, shall forward 1 copy to the police department of the city, village, or township in which the seller resides, or, if the seller does not reside in a city, village, or township having a police department, to the county sheriff, not later than 10 days following the purchase or acquisition. The seller shall return the copy to the police department or county sheriff in person or by first-class mail or certified mail sent in the 10-day period to the proper address of the police department or county sheriff. A seller who fails to comply with the requirements of this subsection is responsible for a state civil infraction and may be fined not more than $250.00. If a seller is found responsible for a state civil infraction under this subsection, the court shall notify the department of state police. If the seller is licensed under section 5b, the court shall notify the

licensing authority of that determination.

(3) Not later than 10 days after receiving the record copy for a pistol returned under subsection (2), the police department or county sheriff shall electronically enter the information into the pistol entry database as required by the department of state police if it has the ability to electronically enter that information. If the police department or county sheriff does not have that ability, the police department or county sheriff shall provide that information to the department of state police in a manner otherwise required by the department of state police. Any police department or county sheriff 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. Not later than 48 hours after entering or otherwise providing the information on the record copy returned under subsection (2) to the department of state police, the police department or county sheriff shall forward the copy of the record to the department of state police. The purchaser may obtain a copy of the information placed in the pistol entry database under this subsection to verify the accuracy of that information. The police department or county sheriff may charge a fee not to exceed $1.00 for the cost of providing the copy. The purchaser may carry, use, possess, and transport the pistol for 30 days beginning on the date of purchase or acquisition only while the individual is in possession of the individual's copy of the record. However, the individual is not required to have the record in the individual's possession while carrying, using, possessing, or transporting the pistol after this period.

(4) This section does not apply to a person or entity exempt under section 2(7).

(5) An individual who makes a material false statement on a sales record under this section is guilty of a felony punishable by imprisonment for not more than 4 years or a fine of not more than $2,500.00, or both.

(6) The department of state police may promulgate rules to implement this section.

(7) The Michigan commission on law enforcement standards shall provide license or certificate information, as applicable, to the department of state police to verify the requirements of this section.

(8) As used in this section:

(a) "Federally licensed firearms dealer" means a person licensed to sell firearms under 18 USC 923.

(b) "Person" means an individual, partnership, corporation, association, or other legal entity.

History: Add. 2000, Act 381, Eff. July 1, 2001 ;-- Am. 2008, Act 194, Eff. Jan. 7, 2009 ;-- Am. 2010, Act 210, Eff. Feb. 15, 2011 ;-- Am. 2012, Act 377, Imd. Eff. Dec. 18, 2012 ;-- Am. 2013, Act 3, Eff. Mar. 12, 2013 ;-- Am. 2015, Act 3, Eff. Dec. 1, 2015 ;-- Am. 2016, Act 6, Eff. May 2, 2016 ;-- Am. 2016, Act 301, Eff. Jan. 2, 2017 ;-- Am. 2023, Act 19, Eff. Feb. 13, 2024
Compiler's Notes: Former MCL 28.422a, which pertained to a basic pistol safety brochure, was repealed by Act 220 of 1992, Imd. Eff. Oct. 13, 1992.
Popular Name: CCW
Popular Name: Concealed Weapons
Popular Name: CPL
Popular Name: Right to Carry
Popular Name: Shall Issue

28.422b Entry of order or disposition into law enforcement information network; written notice; person subject of order; request to amend inaccuracy; notice of grant or denial of request; hearing; entry of personal protection order; service required.

Sec. 2b.

(1) Except as provided in subsection (5), upon entry of an order or disposition into the law enforcement information network under any provision of law described in section 2(3)(a), the department of state police shall immediately send written notice of that entry to the individual who is the subject of the order or disposition by first-class mail to the last known address of the individual. The notice must include at least all of the following:

(a) The name of the individual.

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

(c) A statement that the individual cannot obtain a license to purchase a firearm or obtain a concealed weapon license until the order or disposition is removed from the law enforcement information network.

(d) A statement that the individual may request that the state police correct or expunge inaccurate information entered into the law enforcement information network.

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

(a) Amend an inaccuracy in the information entered into the law enforcement information network under any provision of law described in section 2(3)(a).

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

(i) The individual is not subject to an order of involuntary commitment in an inpatient or outpatient setting due to mental illness.

(ii) The individual is not subject to an order or disposition determining that the individual is legally incapacitated.

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

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

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

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

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

(v) The individual is not subject to an extreme risk protection order issued under the extreme risk protection order act.

(3) Before the expiration of 30 days after a request is made to amend an inaccuracy in the law enforcement information network under subsection (2)(a) or to expunge 1 or more specific entries from the law enforcement information network under subsection (2)(b)(i) to (v), the department of state police shall conduct an investigation concerning the accuracy of the information contained in the law enforcement information network, either grant or deny the request and provide the individual with written notice of that grant or denial. The department of state police shall include in a notice of denial a statement specifying the basis of the denial, and that an individual may appeal the denial in accordance with the administrative procedures act of 1969, 1969 PA 306, MCL 24.201 to 24.328.

(4) If the department of state police denies a request by an individual for amendment or expunction under subsection (2), or fails to act within 30 days after receiving the request under subsection (2), the individual may request a hearing before a hearing officer appointed by the department of state police for a determination of whether information entered into the law enforcement information network should be amended or expunged because it is inaccurate or false. The department of state police shall conduct the hearing in accordance with the administrative procedures act of 1969, 1969 PA 306, MCL 24.201 to 24.328.

(5) The department of state police shall not send written notice of an entry of an order or disposition into the law enforcement information network as required for a personal protection order issued under section 2950 or 2950a of the revised judicature act of 1961, 1961 PA 236, MCL 600.2950 and 600.2950a, or an extreme risk protection order issued under the extreme risk protection order act, until the department has received notice that the respondent of the order has been served with or has received notice of the personal protection order or extreme risk protection order.

History: Add. 1994, Act 338, Eff. Apr. 1, 1996 ;-- Am. 2001, Act 199, Eff. Apr. 1, 2002 ;-- Am. 2014, Act 205, Eff. Dec. 21, 2014 ;-- Am. 2023, Act 19, Eff. Feb. 13, 2024 ;-- Am. 2023, Act 37, Eff. Feb. 13, 2024
Popular Name: CCW
Popular Name: Concealed Weapons
Popular Name: CPL
Popular Name: Right to Carry
Popular Name: Shall Issue

28.423 Repealed. 2000, Act 381, Eff. July 1, 2001.

Compiler's Notes: The repealed section pertained to application fee.
Popular Name: CCW
Popular Name: Concealed Weapons
Popular Name: CPL
Popular Name: Right to Carry
Popular Name: Shall Issue

28.424 Restoration of rights by circuit court; petition; fee; determination; order; circumstances.

Sec. 4.

(1) An individual who is prohibited from possessing, using, transporting, selling, purchasing, carrying, shipping, receiving, or distributing a firearm under section 224f(2) of the Michigan penal code, 1931 PA 328, MCL 750.224f, may petition the circuit court in the county in which he or she resides for restoration of those rights.

(2) An individual who is prohibited from possessing, using, transporting, selling, carrying, shipping, or distributing ammunition under section 224f(4) of the Michigan penal code, 1931 PA 328, MCL 750.224f, may petition the circuit court in the county in which he or she resides for restoration of those rights.

(3) Not more than 1 petition may be submitted under subsection (1) or (2) in any 12-month period. The circuit court shall charge a fee as provided in section 2529 of the revised judicature act of 1961, 1961 PA 236, MCL 600.2529, unless the court waives that fee.

(4) The circuit court shall, by written order, restore the rights of an individual to possess, use, transport, sell, purchase, carry, ship, receive, or distribute a firearm or to possess, use, transport, sell, carry, ship, or distribute ammunition if the circuit court determines, by clear and convincing evidence, that all of the following circumstances exist:

(a) The individual properly submitted a petition for restoration of those rights as provided under this section.

(b) The expiration of 5 years after all of the following circumstances:

(i) The individual has paid all fines imposed for the violation resulting in the prohibition.

(ii) The individual has served all terms of imprisonment imposed for the violation resulting in the prohibition.

(iii) The individual has successfully completed all conditions of probation or parole imposed for the violation resulting in the prohibition.

(c) The individual's record and reputation are such that the individual is not likely to act in a manner dangerous to the safety of other individuals.

History: Add. 1992, Act 219, Imd. Eff. Oct. 13, 1992 ;-- Am. 2014, Act 6, Eff. May 12, 2014 ;-- Am. 2015, Act 3, Eff. Dec. 1, 2015 ;-- Am. 2017, Act 95, Eff. Oct. 11, 2017
Compiler's Notes: Former section 4 of this act was not compiled.
Popular Name: CCW
Popular Name: Concealed Weapons
Popular Name: CPL
Popular Name: Right to Carry
Popular Name: Shall Issue

28.425 Concealed pistol application kits.

Sec. 5.

(1) County clerks shall provide concealed pistol application kits during normal business hours and free of charge to individuals who wish to apply for licenses to carry concealed pistols. Each kit shall only contain all of the following:

(a) A concealed pistol license application form provided by the director of the department of state police.

(b) The fingerprint cards under section 5b(10), if required.

(c) Written information regarding the procedures involved in obtaining a license to carry a concealed pistol.

(d) Written information identifying entities that offer the training required under section 5b(7)(c), if maintained by the county clerk.

(2) A county clerk shall not deny an individual the right to receive a concealed pistol application kit under this section.

(3) An individual who is denied an application kit under this section and obtains an order of mandamus directing the county clerk to provide him or her with the application kit shall be awarded his or her actual and reasonable costs and attorney fees for obtaining the order.

(4) The department of state police shall provide the application kits required under this section to county clerks in an electronic format. The department of state police shall not charge a fee for the kits.

History: Add. 2000, Act 381, Eff. July 1, 2001 ;-- Am. 2015, Act 3, Eff. Dec. 1, 2015
Popular Name: CCW
Popular Name: Concealed Weapons
Popular Name: CPL
Popular Name: Right to Carry
Popular Name: Shall Issue

28.425a Validity and duration of concealed pistol license issued before December 1, 2015; duties of county clerk; verification by state police; applicant issued personal protection order; emergency license; requirements; notice of statutory disqualification; surrender of emergency license; compilation of firearms laws by legislative service bureau; distribution; statement.

Sec. 5a.

(1) A license to carry a concealed pistol issued by a concealed weapon licensing board before December 1, 2015 is valid and remains in effect until the expiration of that license or as otherwise provided by law.

(2) The county clerk is responsible for all of the following:

(a) Storing and maintaining all records related to issuing a license or notice of statutory disqualification in that county.

(b) Issuing licenses to carry a concealed pistol.

(c) Issuing notices of statutory disqualification, notices of suspensions, and notices of revocations.

(3) The department of state police shall verify under section 5b(6) whether an applicant for a license to carry a concealed pistol is eligible to receive a license to carry a concealed pistol.

(4) A county clerk shall issue an emergency license to carry a concealed pistol to an individual if the individual has obtained a personal protection order issued under section 2950 or 2950a of the revised judicature act of 1961, 1961 PA 236, MCL 600.2950 and 600.2950a, or to that individual if a county sheriff determines that there is clear and convincing evidence to believe the safety of the individual or the safety of a member of the individual's family or household is endangered by the individual's inability to immediately obtain a license to carry a concealed pistol. Clear and convincing evidence includes, but is not limited to, an application for a personal protection order, police reports and other law enforcement records, or written, audio, or visual evidence of threats to the individual or member of the individual's family or household. A county clerk shall only issue an emergency license to carry a concealed pistol to an individual who has obtained a personal protection order if the individual is eligible under section 5b(7)(d), (e), (f), (h), (i), (j), (k), and (m) to receive a license based on a criminal record check through the law enforcement information network conducted by the department of state police. The county sheriff shall only issue a determination under this subsection to an individual who is eligible under section 5b(7)(d), (e), (f), (h), (i), (j), (k), and (m) to receive a license based on a criminal record check through the law enforcement information network and only after the county sheriff has taken the individual's fingerprints in compliance with section 5b(9). A county sheriff shall notify the county clerk if the county sheriff determines that an individual is not eligible under section 5b(7)(d), (e), (f), (h), (i), (j), (k), or (m) to receive a license. An emergency license must be on a form provided by the department of state police. An individual who applies for an emergency license shall, within 10 business days after applying for an emergency license, complete a pistol training course under section 5j and apply for a license under section 5b. If an individual who applies for an emergency license does not complete a pistol training course under section 5j and apply for a license under section 5b within 10 business days after applying for an emergency license, that individual's emergency license is no longer valid. A county sheriff who makes a determination under this section, performs a criminal record check, and takes the applicant's fingerprints may charge a fee not to exceed $15.00. A county clerk may charge a fee not to exceed $10.00 for printing an emergency license. A county clerk shall deposit a fee collected by the county clerk under this subsection in the concealed pistol licensing fund of that county created in section 5x. Except as otherwise provided in this subsection, an emergency license is valid for 45 days or until the county clerk issues a notice of statutory disqualification, whichever occurs first. Except as otherwise provided in this act, an emergency license is, for all other purposes of this act, a license to carry a concealed pistol. The county clerk shall include an indication on the license if an individual is exempt from the prohibitions against carrying a concealed pistol on premises described in section 5o if the applicant provides acceptable proof that he or she qualifies for that exemption. An individual shall not obtain more than 1 emergency license in any 5-year period. If a county clerk issues a notice of statutory disqualification to an applicant who received an emergency license under this section, the applicant shall immediately surrender the emergency license to the county clerk by mail or in person if that emergency license has not expired. An individual who fails to surrender a license as required by this subsection after he or she is notified of a statutory disqualification is guilty of a misdemeanor punishable by imprisonment for not more than 93 days or a fine of not more than $500.00, or both.

(5) The legislative service bureau shall compile the firearms laws of this state, including laws that apply to

carrying a concealed pistol, and shall provide copies of the compilation in an electronic format to the department of state police. The department of state police shall provide a copy of the compiled laws to each county clerk in this state. The department of state police shall also provide forms to appeal any notice of statutory disqualification, or suspension or revocation of a license under this act. The department of state police shall distribute copies of the compilation and forms required under this subsection in an electronic format to each county clerk. The county clerk shall distribute a copy of the compilation and forms at no charge to each individual who applies for a license to carry a concealed pistol at the time the application is submitted. The county clerk may distribute copies of the compilation and forms required under this subsection in an electronic format. The county clerk shall require the applicant to sign a written statement acknowledging that he or she has received a copy of the compilation and forms provided under this subsection. An individual is not eligible to receive a license to carry a concealed pistol until he or she has signed the statement.

History: Add. 2000, Act 381, Eff. July 1, 2001 ;-- Am. 2015, Act 3, Eff. Dec. 1, 2015 ;-- Am. 2017, Act 95, Eff. Oct. 11, 2017
Popular Name: CCW
Popular Name: Concealed Weapons
Popular Name: CPL
Popular Name: Right to Carry
Popular Name: Shall Issue

28.425b License application; form; contents; material false statement as felony; record; fee; verification of requirements; determination; circumstances for issuance; information of court order or conviction; fingerprints; issuance or denial; individual moving to different county; replacement license; suspension or revocation of license; furnishing copy of application to individual; list of certified instructors; delivery of license by first-class mail; liability for civil damages; voluntary surrender of license; definitions.

Sec. 5b.

(1) To obtain a license to carry a concealed pistol, an individual shall apply to the county clerk in the county in which the individual resides. The applicant shall file the application with the county clerk in the county in which the applicant resides during the county clerk's normal business hours. The application must be on a form provided by the director of the department of state police and allow the applicant to designate whether the applicant seeks an emergency license. The applicant shall sign the application under oath. The county clerk or the county clerk's representative shall administer the oath. An application under this subsection is not considered complete until an applicant submits all of the required information and fees and has fingerprints taken under subsection (9). An application under this subsection is considered withdrawn if an applicant does not have fingerprints taken under subsection (9) within 45 days after the date an application is filed under this subsection. A completed application and all receipts issued under this section expire 1 year after the date of application. The county clerk shall issue the applicant a receipt for the applicant's application at the time the application is submitted containing the name of the applicant, the applicant's state-issued driver license or personal identification card number, the date and time the receipt is issued, the amount paid, the name of the county in which the receipt is issued, an impression of the county seal, and the statement, "This receipt was issued for the purpose of applying for a concealed pistol license and for obtaining fingerprints related to that application. This receipt does not authorize an individual to carry a concealed pistol in this state.". The application must contain all of the following:

(a) The applicant's legal name, date of birth, the address of the applicant's primary residence, and the applicant's state-issued driver license or personal identification card number.

(b) A statement by the applicant that the applicant meets the criteria for a license under this act to carry a concealed pistol.

(c) A statement by the applicant authorizing the department of state police to access any record needed to perform the verification in subsection (6).

(d) A statement by the applicant regarding whether the applicant has a history of mental illness that would disqualify the applicant under subsection (7)(j) to (l) from receiving a license to carry a concealed pistol.

(e) A statement by the applicant regarding whether the applicant has ever been convicted in this state or elsewhere for any of the following:

(i) Any felony.

(ii) A misdemeanor listed under subsection (7)(h) if the applicant was convicted of that misdemeanor in the 8 years immediately preceding the date of the application, or a misdemeanor listed under subsection (7)(i) if the applicant was convicted of that misdemeanor in the 3 years immediately preceding the date of the application.

(f) A statement by the applicant whether the applicant has been dishonorably discharged from the Armed Forces

of the United States.

(g) If an applicant does not have a digitized photograph on file with the secretary of state, a passport-quality photograph of the applicant provided by the applicant at the time of application.

(h) A certificate stating that the applicant has completed the training course prescribed by this act.

(2) The county clerk shall not require the applicant to submit any additional forms, documents, letters, or other evidence of eligibility for obtaining a license to carry a concealed pistol except as set forth in subsection (1) or as otherwise provided for in this act. The application form must contain a conspicuous warning that the application is executed under oath and that intentionally making a material false statement on the application is a felony punishable by imprisonment for not more than 4 years or a fine of not more than $2,500.00, or both.

(3) An individual who intentionally makes a material false statement on an application under subsection (1) is guilty of a felony punishable by imprisonment for not more than 4 years or a fine of not more than $2,500.00, or both.

(4) The county clerk shall retain a copy of each application for a license to carry a concealed pistol as an official record. One year after the expiration of a concealed pistol license, the county clerk may destroy the record and a name index of the record must be maintained in the database created in section 5e.

(5) Each applicant shall pay a nonrefundable application and licensing fee of $100.00 by any method of payment accepted by that county for payments of other fees and penalties. Except as provided in subsection (9), no other charge, fee, cost, or assessment, including any local charge, fee, cost, or assessment, is required of the applicant except as specifically authorized in this act. The applicant shall pay the application and licensing fee to the county. The county treasurer shall deposit $26.00 of each application and licensing fee collected under this section in the concealed pistol licensing fund of that county created in section 5x. The county treasurer shall forward the balance remaining to the state treasurer. The state treasurer shall deposit the balance of the fee in the general fund to the credit of the department of state police. The department of state police shall use the money received under this act to process the fingerprints and to reimburse the Federal Bureau of Investigation for the costs associated with processing fingerprints submitted under this act. The balance of the money received under this act must be credited to the department of state police.

(6) The department of state police shall verify the requirements of subsection (7)(d), (e), (f), (h), (i), (j), (k), and (m) through the law enforcement information network and the national instant criminal background check system and shall report to the county clerk all statutory disqualifications, if any, under this act that apply to an applicant.

(7) The county clerk shall issue and shall send by first-class mail a license to an applicant to carry a concealed pistol within the period required under this act if the county clerk determines that all of the following circumstances exist:

(a) The applicant is 21 years of age or older.

(b) The applicant is a citizen of the United States or is an alien lawfully admitted into the United States, is a legal resident of this state, and has resided in this state for not less than the 6 months immediately preceding the date of application. The county clerk shall waive the 6-month residency requirement for an emergency license under section 5a(4) if the applicant is a petitioner for a personal protection order issued under section 2950 or 2950a of the revised judicature act of 1961, 1961 PA 236, MCL 600.2950 and 600.2950a, or if the county sheriff determines that there is clear and convincing evidence to believe that the safety of the applicant or the safety of a member of the applicant's family or household is endangered by the applicant's inability to immediately obtain a license to carry a concealed pistol. If the applicant holds a valid concealed pistol license issued by another state at the time the applicant's residency in this state is established, the county clerk shall waive the 6-month residency requirement and the applicant may apply for a concealed pistol license at the time the applicant's residency in this state is established. For the purposes of this section, an individual is considered a legal resident of this state if any of the following apply:

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

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

(iii) The individual is on active duty status with the Armed Forces of the United States and is stationed outside of this state, but the individual's home of record is in this state.

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

(c) The applicant has knowledge and has had training in the safe use and handling of a pistol by the successful completion of a pistol safety training course or class that meets the requirements of section 5j.

(d) Based solely on the report received from the department of state police under subsection (6), the applicant is not the subject of an order or disposition under any of the following:

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

(ii) Section 5107 of the estates and protected individuals code, 1998 PA 386, MCL 700.5107.

(iii) Sections 2950 and 2950a of the revised judicature act of 1961, 1961 PA 236, MCL 600.2950 and 600.2950a.

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

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

(vi) The extreme risk protection order act.

(e) Based solely on the report received from the department of state police under subsection (6), the applicant 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) Based solely on the report received from the department of state police under subsection (6), the applicant has never been convicted of a felony in this state or elsewhere, and a felony charge against the applicant is not pending in this state or elsewhere at the time the applicant applies for a license described in this section.

(g) The applicant has not been dishonorably discharged from the Armed Forces of the United States.

(h) Based solely on the report received from the department of state police under subsection (6), the applicant has not been convicted of a misdemeanor violation of any of the following in the 8 years immediately preceding the date of application and a charge for a misdemeanor violation of any of the following is not pending against the applicant in this state or elsewhere at the time the applicant applies for a license described in this section:

(i) Section 617a (failing to stop when involved in a personal injury accident), section 625 as punishable under subsection (9)(b) of that section (operating while intoxicated, second offense), section 625m as punishable under subsection (4) of that section (operating a commercial vehicle with alcohol content, second offense), section 626 (reckless driving), or a violation of section 904(1) (operating while license suspended or revoked, second or subsequent offense) of the Michigan vehicle code, 1949 PA 300, MCL 257.617a, 257.625, 257.625m, 257.626, and 257.904.

(ii) Section 185(7) of the aeronautics code of the state of Michigan, 1945 PA 327, MCL 259.185 (operating aircraft while under the influence of intoxicating liquor or a controlled substance with prior conviction).

(iii) Section 29 of the weights and measures act, 1964 PA 283, MCL 290.629 (hindering or obstructing certain persons performing official weights and measures duties).

(iv) Section 10 of the motor fuels quality act, 1984 PA 44, MCL 290.650 (hindering, obstructing, assaulting, or committing bodily injury upon director or authorized representative).

(v) Section 80176 as punishable under section 80177(1)(b) (operating vessel under the influence of intoxicating liquor or a controlled substance, second offense), section 81134 as punishable under subsection (8)(b) of that section (operating ORV under the influence of intoxicating liquor or a controlled substance, second or subsequent offense), or section 82127 as punishable under section 82128(1)(b) (operating snowmobile under the influence of intoxicating liquor or a controlled substance, second offense) of the natural resources and environmental protection act, 1994 PA 451, MCL 324.80176, 324.80177, 324.81134, 324.82127, and 324.82128.

(vi) Section 7403 of the public health code, 1978 PA 368, MCL 333.7403 (possession of controlled substance, controlled substance analogue, or prescription form).

(vii) Section 353 of the railroad code of 1993, 1993 PA 354, MCL 462.353, punishable under subsection (4) of that section (operating locomotive under the influence of intoxicating liquor or a controlled substance, or while visibly impaired, second offense).

(viii) Section 7 of 1978 PA 33, MCL 722.677 (displaying sexually explicit matter to minors).

(ix) Section 81 (assault or domestic assault), section 81a(1) or (2) (aggravated assault or aggravated domestic assault), section 115 (breaking and entering or entering without breaking), section 136b(7) (fourth degree child abuse), section 145n (vulnerable adult abuse), section 157b(3)(b) (solicitation to commit a felony), section 215 (impersonating peace officer or medical examiner), section 223 (illegal sale of a firearm or ammunition), section 224d (illegal use or sale of a self-defense spray), section 227c (improper transportation of a loaded firearm), section 229 (accepting a pistol in pawn), section 232a (improperly obtaining a pistol, making a false statement on an application to purchase a pistol, or using false identification to purchase a pistol), section 233 (intentionally aiming a firearm without malice), section 234 (intentionally discharging a firearm aimed without malice), section 234d (possessing a firearm on prohibited premises), section 234e (brandishing a firearm in public), section 234f (possession of a firearm by an individual less than 18 years of age), section 235 (intentionally discharging a firearm aimed without malice causing injury), section 235a (parent of a minor who possessed a firearm in a weapon free school zone), section 236 (setting a spring gun or other device), section 237 (possessing a firearm while under the influence of intoxicating liquor or a controlled substance), section 237a (weapon free school zone violation), section 335a (indecent exposure), section 411h (stalking), or section 520e (fourth degree criminal sexual conduct) of the Michigan penal code, 1931 PA 328, MCL 750.81, 750.81a, 750.115, 750.136b, 750.145n, 750.157b, 750.215, 750.223, 750.224d, 750.227c, 750.229, 750.232a, 750.233, 750.234, 750.234d, 750.234e, 750.234f, 750.235, 750.235a, 750.236, 750.237, 750.237a, 750.335a, 750.411h, and 750.520e.

(x) Section 1 (reckless, careless, or negligent use of a firearm resulting in injury or death), section 2 (careless, reckless, or negligent use of a firearm resulting in property damage), or section 3a (reckless discharge of a firearm) of 1952 PA 45, MCL 752.861, 752.862, and 752.863a.

(xi) A violation of a law of the United States, another state, or a local unit of government of this state or another state substantially corresponding to a violation described in subparagraphs (i) to (x).

(i) Based solely on the report received from the department of state police under subsection (6), the applicant has not been convicted of a misdemeanor violation of any of the following in the 3 years immediately preceding the date of application unless the misdemeanor violation is listed under subdivision (h) and a charge for a misdemeanor violation of any of the following is not pending against the applicant in this state or elsewhere at the time the applicant applies for a license described in this section:

(i) Section 625 (operating under the influence), section 625a (refusal of commercial vehicle operator to submit to a chemical test), section 625k (ignition interlock device reporting violation), section 625l (circumventing an ignition interlock device), or section 625m punishable under subsection (3) of that section (operating a commercial vehicle with alcohol content) of the Michigan vehicle code, 1949 PA 300, MCL 257.625, 257.625a, 257.625k, 257.625l, and 257.625m.

(ii) Section 185 of the aeronautics code of the state of Michigan, 1945 PA 327, MCL 259.185 (operating aircraft under the influence).

(iii) Section 81134 (operating ORV under the influence or operating ORV while visibly impaired), or section 82127 (operating a snowmobile under the influence) of the natural resources and environmental protection act, 1994 PA 451, MCL 324.81134 and 324.82127.

(iv) Part 74 of the public health code, 1978 PA 368, MCL 333.7401 to 333.7461 (controlled substance violation).

(v) Section 353 of the railroad code of 1993, 1993 PA 354, MCL 462.353, punishable under subsection (3) of that section (operating locomotive under the influence).

(vi) Section 167 (disorderly person), section 174 (embezzlement), section 218 (false pretenses with intent to defraud), section 356 (larceny), section 356d (second degree retail fraud), section 359 (larceny from a vacant building or structure), section 362 (larceny by conversion), section 362a (larceny – defrauding lessor), section 377a (malicious destruction of property), section 380 (malicious destruction of real property), section 535 (receiving or concealing stolen property), or section 540e (malicious use of telecommunications service or device) of the Michigan penal code, 1931 PA 328, MCL 750.167, 750.174, 750.218, 750.356, 750.356d, 750.359, 750.362, 750.362a, 750.377a, 750.380, 750.535, and 750.540e.

(vii) A violation of a law of the United States, another state, or a local unit of government of this state or another state substantially corresponding to a violation described in subparagraphs (i) to (vi).

(j) Based solely on the report received from the department of state police under subsection (6), the applicant has not been found guilty but mentally ill of any crime and has not offered a plea of not guilty of, or been acquitted of, any crime by reason of insanity.

(k) Based solely on the report received from the department of state police under subsection (6), the applicant is not currently and has never been subject to an order of involuntary commitment in an inpatient or outpatient setting due to mental illness.

(l) The applicant has filed a statement under subsection (1)(d) that the applicant does not have a diagnosis of mental illness that includes an assessment that the individual presents a danger to the applicant or to another at the time the application is made, regardless of whether the applicant is receiving treatment for that illness.

(m) Based solely on the report received from the department of state police under subsection (6), the applicant is not under a court order of legal incapacity in this state or elsewhere.

(n) The applicant has a valid state-issued driver license or personal identification card.

(8) Upon entry of a court order or conviction of 1 of the enumerated prohibitions for using, transporting, selling, purchasing, carrying, shipping, receiving, or distributing a firearm in this section the department of state police shall immediately enter the order or conviction into the law enforcement information network. For purposes of this act, information of the court order or conviction must not be removed from the law enforcement information network, but may be moved to a separate file intended for the use of the department of state police, the courts, and other government entities as necessary and exclusively to determine eligibility to be licensed under this act.

(9) An individual, after submitting an application and paying the fee prescribed under subsection (5), shall request that classifiable fingerprints be taken by a county clerk, the department of state police, a county sheriff, a local police agency, or other entity, if the county clerk, department of state police, county sheriff, local police agency, or other entity provides fingerprinting capability for the purposes of this act. An individual who has had classifiable fingerprints taken under section 5a(4) does not need additional fingerprints taken under this subsection. If the individual requests that classifiable fingerprints be taken by the county clerk, department of state police, county sheriff, a local police agency, or other entity, the individual shall also pay a fee of $15.00 by any method of payment accepted for payments of other fees and penalties. A county clerk shall deposit any fee it accepts under this subsection in the concealed pistol licensing fund of that county created in section 5x. The county clerk, department of state police, county sheriff, local police agency, or other entity shall take the fingerprints within 5 business days after the request. County clerks, the department of state police, county sheriffs, local police agencies, and other entities shall provide reasonable access to fingerprinting services during normal business hours as is necessary to comply with the requirements of this act if the county clerk, department of state police, county sheriff, local police agency, or other entity provides fingerprinting capability for the purposes of this act. The entity providing fingerprinting services shall issue the individual a receipt at the time the individual's fingerprints are taken.

The county clerk, department of state police, county sheriff, local police agency, or other entity shall not provide a receipt under this subsection unless the individual requesting the fingerprints provides an application receipt received under subsection (1). A receipt under this subsection must contain all of the following:

(a) The name of the individual.

(b) The date and time the receipt is issued.

(c) The amount paid.

(d) The name of the entity providing the fingerprint services.

(e) The individual's state-issued driver license or personal identification card number.

(f) The statement "This receipt was issued for the purpose of applying for a concealed pistol license. As provided in section 5b of 1927 PA 372, MCL 28.425b, if a license or notice of statutory disqualification is not issued within 45 days after the date this receipt was issued, this receipt shall serve as a concealed pistol license for the individual named in the receipt when carried with an official state-issued driver license or personal identification card. The receipt is valid as a license until a license or notice of statutory disqualification is issued by the county clerk. This receipt does not exempt the individual named in the receipt from complying with all applicable laws for the purchase of firearms.".

(10) The fingerprints must be taken, under subsection (9), in a manner prescribed by the department of state police. The county clerk, county sheriff, local police agency, or other entity shall immediately forward the fingerprints taken by that entity to the department of state police for comparison with fingerprints already on file with the department of state police. The department of state police shall immediately forward the fingerprints to the Federal Bureau of Investigation. Within 5 business days after completing the verification under subsection (6), the department shall send the county clerk a list of an individual's statutory disqualifications under this act. Except as provided in section 5a(4), the county clerk shall not issue a concealed pistol license until the county clerk receives the report of statutory disqualifications prescribed in this subsection. If an individual's fingerprints are not classifiable, the department of state police shall, at no charge, take the individual's fingerprints again or provide for the comparisons under this subsection to be conducted through alternative means. The county clerk shall not issue a notice of statutory disqualification because an individual's fingerprints are not classifiable by the Federal Bureau of Investigation.

(11) The county clerk shall send by first-class mail a notice of statutory disqualification for a license under this act to an individual if the individual is not qualified under subsection (7) to receive that license.

(12) A license to carry a concealed pistol that is issued based upon an application that contains a material false statement is void from the date the license is issued.

(13) Subject to subsection (10), the department of state police shall complete the verification required under subsection (6) and the county clerk shall issue a license or a notice of statutory disqualification not later than 45 days after the date the individual has classifiable fingerprints taken under subsection (9). The county clerk shall include an indication on the license if an individual is exempt from the prohibitions against carrying a concealed pistol on premises described in section 5o if the applicant provides acceptable proof that the applicant qualifies for that exemption. If the county clerk receives notice from a county sheriff or chief law enforcement officer that a licensee is no longer a member of a sheriff's posse, an auxiliary officer, or a reserve officer, the county clerk shall notify the licensee that the licensee shall surrender the concealed pistol license indicating that the individual is exempt from the prohibitions against carrying a concealed pistol on premises described in section 5o. The licensee shall, not later than 30 days after receiving notice from the county clerk, surrender the license indicating that the individual is exempt from the prohibitions against carrying a concealed pistol on premises described in section 5o and obtain a replacement license after paying the fee required under subsection (15). If the county clerk issues a notice of statutory disqualification, the county clerk shall, not later than 5 business days after that notice, do all of the following:

(a) Inform the individual in writing of the reasons for the denial or disqualification. Information under this subdivision must include all of the following:

(i) A statement of each statutory disqualification identified.

(ii) The source of the record for each statutory disqualification identified.

(iii) The contact information for the source of the record for each statutory disqualification identified.

(b) Inform the individual in writing of the individual's right to appeal the denial or notice of statutory disqualification to the circuit court as provided in section 5d.

(c) Inform the individual that the individual should contact the source of the record for any statutory disqualification to correct any errors in the record resulting in the statutory disqualification.

(14) If a license or notice of statutory disqualification is not issued under subsection (13) within 45 days after the date the individual has classifiable fingerprints taken under subsection (9), the receipt issued under subsection (9) serves as a concealed pistol license for purposes of this act when carried with a state-issued driver license or personal identification card and is valid until a license or notice of statutory disqualification is issued by the county clerk.

(15) If an individual licensed under this act to carry a concealed pistol moves to a different county within this state, the individual's license remains valid until it expires or is otherwise suspended or revoked under this act. An

individual may notify a county clerk that the individual has moved to a different address within this state for the purpose of receiving the notice under section 5l(1). A license to carry a concealed pistol that is lost, stolen, defaced, or replaced for any other reason may be replaced by the issuing county clerk for a replacement fee of $10.00. A county clerk shall deposit a replacement fee under this subsection in the concealed pistol licensing fund of that county created in section 5x.

(16) If a license issued under this act is suspended or revoked, the license is forfeited and the individual shall return the license to the county clerk forthwith by mail or in person. The county clerk shall retain a suspended or revoked license as an official record 1 year after the expiration of the license, unless the license is reinstated or a new license is issued. The county clerk shall notify the department of state police if a license is suspended or revoked. The department of state police shall enter that suspension or revocation into the law enforcement information network. An individual who fails to return a license as required under this subsection after the individual was notified that the individual's license was suspended or revoked is guilty of a misdemeanor punishable by imprisonment for not more than 93 days or a fine of not more than $500.00, or both.

(17) An applicant or an individual licensed under this act to carry a concealed pistol may be furnished a copy of the individual's application under this section upon request and the payment of a reasonable fee not to exceed $1.00. The county clerk shall deposit any fee collected under this subsection in the concealed pistol licensing fund of that county created in section 5x.

(18) This section does not prohibit the county clerk from making public and distributing to the public at no cost lists of individuals who are certified as qualified instructors as prescribed under section 5j.

(19) A county clerk issuing an initial license or renewal license under this act shall mail the license to the licensee by first-class mail in a sealed envelope. Upon payment of the fee under subsection (15), a county clerk shall issue a replacement license in person at the time of application for a replacement license. A county clerk may also deliver a replacement license by first-class mail if the individual submits to the clerk a written request and a copy of the individual's state-issued driver license or personal identification card.

(20) A county clerk, county sheriff, county prosecuting attorney, police department, or the department of state police is not liable for civil damages as a result of issuing a license under this act to an individual who later commits a crime or a negligent act.

(21) An individual licensed under this act to carry a concealed pistol may voluntarily surrender that license without explanation. A county clerk shall retain a surrendered license as an official record for 1 year after the license is surrendered. If an individual voluntarily surrenders a license under this subsection, the county clerk shall notify the department of state police. The department of state police shall enter into the law enforcement information network that the license was voluntarily surrendered and the date the license was voluntarily surrendered.

(22) As used in this section:

(a) "Acceptable proof" means any of the following:

(i) For a retired police officer or retired law enforcement officer, the officer's retired identification or a letter from a law enforcement agency stating that the retired police officer or law enforcement officer retired in good standing.

(ii) For an individual who is employed or contracted by an entity described under section 5o(1) to provide security services, a letter from that entity stating that the employee is required by the employer or the terms of a contract to carry a concealed firearm on the premises of the employing or contracting entity and the individual's employee identification.

(iii) For an individual who is licensed as a private investigator or private detective under the professional investigator licensure act, 1965 PA 285, MCL 338.821 to 338.851, the individual's license.

(iv) For an individual who is a corrections officer of a county sheriff's department, the individual's employee identification and a letter stating that the individual has received county sheriff approved weapons training.

(v) For an individual who is a retired corrections officer of a county sheriff's department, a letter from the county sheriff's office stating that the retired corrections officer retired in good standing and that the individual has received county sheriff approved weapons training.

(vi) For an individual who is a motor carrier officer or capitol security officer of the department of state police, the individual's employee identification.

(vii) For an individual who is a member of a sheriff's posse, the individual's identification.

(viii) For an individual who is an auxiliary officer or reserve officer of a police or sheriff's department, the individual's employee identification.

(ix) For an individual who is a parole, probation, or corrections officer, or absconder recovery unit member, of the department of corrections, the individual's employee identification and proof that the individual obtained a Michigan department of corrections weapons permit.

(x) For an individual who is a retired parole, probation, or corrections officer, or retired absconder recovery unit member, of the department of corrections, a letter from the department of corrections stating that the retired parole, probation, or corrections officer, or retired absconder recovery unit member, retired in good standing and proof that the individual obtained a Michigan department of corrections weapons permit.

(xi) For a state court judge or state court retired judge, a letter from the judicial tenure commission stating that the state court judge or state court retired judge is in good standing.

(xii) For an individual who is a court officer, the individual's employee identification.

(xiii) For a retired federal law enforcement officer, the identification required under 18 USC 926C or a letter from a law enforcement agency stating that the retired federal law enforcement officer retired in good standing.

(xiv) For an individual who is a peace officer, the individual's employee identification.

(b) "Convicted" means a final conviction, the payment of a fine, a plea of guilty or nolo contendere if accepted by the court, or a finding of guilt for a criminal law violation or a juvenile adjudication or disposition by the juvenile division of probate court or family division of circuit court for a violation that if committed by an adult would be a crime.

(c) "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.

(d) "Mental illness" means a substantial disorder of thought or mood that significantly impairs judgment, behavior, capacity to recognize reality, or ability to cope with the ordinary demands of life, and includes, but is not limited to, clinical depression.

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

(f) "Treatment" means care or any therapeutic service, including, but not limited to, the administration of a drug, and any other service for the treatment of a mental illness.

History: Add. 2000, Act 381, Eff. July 1, 2001 ;-- Am. 2002, Act 719, Eff. July 1, 2003 ;-- Am. 2003, Act 31, Imd. Eff. July 1, 2003 ;-- Am. 2006, Act 350, Imd. Eff. Sept. 18, 2006 ;-- Am. 2008, Act 406, Imd. Eff. Jan. 6, 2009 ;-- Am. 2014, Act 207, Eff. Dec. 21, 2014 ;-- Am. 2015, Act 3, Eff. June 2, 2015 ;-- Am. 2015, Act 16, Eff. July 13, 2015 ;-- Am. 2015, Act 207, Eff. Dec. 1, 2015 ;-- Am. 2017, Act 95, Eff. Oct. 11, 2017 ;-- Am. 2023, Act 37, Eff. Feb. 13, 2024
Popular Name: CCW
Popular Name: Concealed Weapons
Popular Name: CPL
Popular Name: Right to Carry
Popular Name: Shall Issue

28.425c License; form; contents; authorized conduct; photograph.

Sec. 5c.

(1) A license to carry a concealed pistol shall be in a form, with the same dimensions as a Michigan operator license, prescribed by the department of state police. Beginning December 1, 2015, the license shall be constructed of plastic laminated paper or hard plastic. No additional fee shall be charged for the license unless otherwise prescribed in this act. A fee not to exceed $10.00 may be charged for an optional hard plastic license only if the county clerk also provides the option of obtaining a plastic laminated paper license at no charge. A county clerk shall deposit a fee collected under this subsection in the concealed pistol licensing fund of that county created in section 5x. The license shall contain all of the following:

(a) The licensee's full name and date of birth.

(b) A photograph and a physical description of the licensee.

(c) A statement of the effective dates of the license.

(d) An indication of exceptions authorized by this act applicable to the licensee.

(e) The licensee's state-issued driver license or personal identification card number.

(f) The premises on which carrying a concealed pistol is prohibited under section 5o.

(g) The peace officer disclosure required under section 5f(3).

(h) An indication whether the license is a duplicate or an emergency license.

(i) If the license is an emergency license, an indication that the emergency license does not exempt the individual from complying with all applicable laws for the purchase of firearms.

(2) The department of state police or a county clerk shall not require a licensee's signature to appear on a license to carry a concealed pistol.

(3) Subject to section 5o and except as otherwise provided by law, a license to carry a concealed pistol issued by

the county clerk authorizes the licensee to do all of the following:

(a) Carry a pistol concealed on or about his or her person anywhere in this state.

(b) Carry a pistol in a vehicle, whether concealed or not concealed, anywhere in this state.

(4) The secretary of state shall make a digitized photograph taken of the applicant for a driver license or personal identification card available to the department for use under this act. The department shall provide the photograph of the applicant received from the secretary of state to the county clerk who shall use the photograph on the individual's license unless the applicant does not have a digitized photograph on file with the secretary of state. If an applicant does not have a digitized photograph on file with the secretary of state, the applicant shall provide a passport-quality photograph of the applicant as provided under section 5b(1).

History: Add. 2000, Act 381, Eff. July 1, 2001 ;-- Am. 2002, Act 719, Eff. July 1, 2003 ;-- Am. 2015, Act 3, Eff. Dec. 1, 2015
Popular Name: CCW
Popular Name: Concealed Weapons
Popular Name: CPL
Popular Name: Right to Carry
Popular Name: Shall Issue

28.425d Denial or failure to issue notice of statutory disqualification, receipt, or license; appeal.

Sec. 5d.

(1) If the county clerk issues a notice of statutory disqualification, fails to provide a receipt that complies with section 5b(1) or 5l(3), or fails to issue a license to carry a concealed pistol as provided in this act, the department of state police fails to provide a receipt that complies with section 5l(3), or the county clerk, department of state police, county sheriff, local police agency, or other entity fails to provide a receipt that complies with section 5b(9), the applicant may appeal the notice of statutory disqualification, the failure to provide a receipt, or the failure to issue the license to the circuit court in the judicial circuit in which he or she resides. The appeal of the notice of statutory disqualification, failure to provide a receipt, or failure to issue a license shall be determined by a review of the record for error.

(2) If the court determines that the notice of statutory disqualification, failure to provide a receipt that complies with section 5b(1) or (9) or 5l(3), or failure to issue a license was clearly erroneous or was arbitrary and capricious, the court shall order the county clerk to issue a license or receipt as required by this act. For applications submitted after November 30, 2015, if the court determines that the notice of statutory disqualification, failure to provide a receipt that complies with section 5b(1) or (9) or 5l(3), or failure to issue a license was clearly erroneous, the court may order an entity to refund any filing fees the applicant incurred in filing the appeal, according to the degree of responsibility of that entity.

(3) For applications submitted before December 1, 2015, if the court determines that the decision of the concealed weapon licensing board to deny issuance of a license to an applicant was arbitrary and capricious, the court shall order this state to pay 1/3 and the county in which the concealed weapon licensing board is located to pay 2/3 of the actual costs and actual attorney fees of the applicant in appealing the denial. For applications submitted on or after December 1, 2015, if the court under subsection (2) determines that the notice of statutory disqualification, failure to provide a receipt that complies with section 5b(1) or (9) or 5l(3), or failure to issue a license to an applicant was arbitrary and capricious, the court shall order the county clerk, the entity taking the fingerprints, or the state to pay the actual costs and actual attorney fees of the applicant in appealing the notice of statutory disqualification, failure to provide a receipt that complies with section 5b(1) or (9) or 5l(3), or failure to issue a license, according to the degree of responsibility of the county clerk, the entity taking the fingerprints, or the state.

(4) If the court determines that an applicant's appeal was frivolous, the court shall order the applicant to pay the actual costs and actual attorney fees of the county clerk, entity taking the fingerprints, or the state in responding to the appeal.

History: Add. 2000, Act 381, Eff. July 1, 2001 ;-- Am. 2002, Act 719, Eff. July 1, 2003 ;-- Am. 2015, Act 3, Eff. Dec. 1, 2015
Popular Name: CCW
Popular Name: Concealed Weapons
Popular Name: CPL
Popular Name: Right to Carry
Popular Name: Shall Issue

28.425e Database; annual report.

Sec. 5e.

(1) The department of state police shall create and maintain a computerized database of individuals who apply under this act for a license to carry a concealed pistol. The database shall contain only the following information as to each individual:

(a) The individual's name, date of birth, address, county of residence, and state-issued driver license or personal identification card number.

(b) If the individual is licensed to carry a concealed pistol in this state, the license number and date of expiration.

(c) Except as provided in subsection (2), if the individual was denied a license to carry a concealed pistol after July 1, 2001 or issued a notice of statutory disqualification, a statement of the reasons for that denial or notice of statutory disqualification.

(d) A statement of all criminal charges pending and criminal convictions obtained against the individual during the license period.

(e) A statement of all determinations of responsibility for civil infractions of this act pending or obtained against the individual during the license period.

(f) The status of the individual's application or license.

(2) If an individual who was denied a license to carry a concealed pistol after July 1, 2001 or issued a notice of statutory disqualification is subsequently issued a license to carry a concealed pistol, the department of state police shall delete from the computerized database the previous reasons for the denial or notice of statutory disqualification.

(3) The department of state police shall enter the information described in subsection (1)(a), (b), and (f) into the law enforcement information network.

(4) Information in the database shall only be accessed and disclosed according to an access protocol that includes the following requirements:

(a) That the requestor of the firearms records uses the law enforcement information network or another system that maintains a record of the requestor's identity, time, and date that the request was made.

(b) Requires the requestor in an intentional query by name of the firearms records to attest that the firearms records were sought under 1 of the lawful purposes provided in section 1b(2).

(5) The department of state police shall by January 1 of each year file with the secretary of the senate and the clerk of the house of representatives, and post on the department of state police's internet website, an annual report setting forth all of the following information for the state for the previous fiscal year:

(a) The number of concealed pistol applications received.

(b) The number of concealed pistol licenses issued.

(c) The number of statutorily disqualified applicants.

(d) Categories for statutory disqualification under subdivision (c).

(e) The number of concealed pistol licenses suspended or revoked.

(f) Categories for suspension or revocation under subdivision (e).

(g) The number of applications pending at the time the report is made.

(h) The mean and median amount of time and the longest and shortest amount of time used by the Federal Bureau of Investigation to supply the fingerprint comparison report required in section 5b(10). The department may use a statistically significant sample to comply with this subdivision.

(i) The total number of individuals licensed to carry a concealed pistol found responsible for a civil violation of this act, the total number of civil violations of this act categorized by offense, the total number of individuals licensed to carry a concealed pistol convicted of a crime, and the total number of those criminal convictions categorized by offense.

(j) The number of suicides by individuals licensed to carry a concealed pistol.

(k) The total amount of revenue the department of state police has received under this act.

(l) Actual costs incurred per initial and renewal license by the department of state police under this act, itemized by each statutory section of this act.

(m) A list of expenditures made by the department of state police from money received under this act, regardless of purpose.

(n) Actual costs incurred per permit for each county clerk.

(o) The number of times the database was accessed, categorized by the purpose for which the database was accessed.

History: Add. 2000, Act 381, Eff. July 1, 2001 ;-- Am. 2014, Act 204, Eff. Dec. 21, 2014 ;-- Am. 2015, Act 3, Eff. Dec. 1, 2015

Popular Name: CCW
Popular Name: Concealed Weapons
Popular Name: CPL
Popular Name: Right to Carry
Popular Name: Shall Issue

28.425f Concealed pistol license; possession; disclosure to peace officer; violation; fine; notice to department; suspension or revocation by county clerk; entry into law enforcement information network; seizure by peace officer; forfeiture; "peace officer" defined.

Sec. 5f.

(1) An individual who is licensed to carry a concealed pistol shall have his or her license to carry that pistol and his or her state-issued driver license or personal identification card in his or her possession at all times he or she is carrying a concealed pistol or a portable device that uses electro-muscular disruption technology.

(2) An individual who is licensed to carry a concealed pistol and who is carrying a concealed pistol or a portable device that uses electro-muscular disruption technology shall show both of the following to a peace officer upon request by that peace officer:

(a) His or her license to carry a concealed pistol.

(b) His or her state-issued driver license or personal identification card.

(3) An individual licensed under this act to carry a concealed pistol and who is carrying a concealed pistol or a portable device that uses electro-muscular disruption technology and who is stopped by a peace officer shall immediately disclose to the peace officer that he or she is carrying a pistol or a portable device that uses electro-muscular disruption technology concealed upon his or her person or in his or her vehicle.

(4) An individual who violates subsection (1) or (2) is responsible for a state civil infraction and shall be fined $100.00.

(5) An individual who violates subsection (3) is responsible for a state civil infraction and shall be fined as follows:

(a) For a first offense, by a fine of $500.00 and by the individual's license to carry a concealed pistol being suspended for 6 months.

(b) For a subsequent offense within 3 years of a prior offense, by a fine of $1,000.00 and by the individual's license to carry a concealed pistol being revoked.

(6) If an individual is found responsible for a state civil infraction under subsection (5), the peace officer shall notify the department of state police of that civil infraction. The department of state police shall notify the county clerk who issued the license, who shall suspend or revoke that license. The county clerk shall send notice by first-class mail of that suspension or revocation to the individual's last known address as indicated in the records of the county clerk. The department of state police shall immediately enter that suspension or revocation into the law enforcement information network.

(7) A pistol or portable device that uses electro-muscular disruption technology carried in violation of this section is subject to immediate seizure by a peace officer. If a peace officer seizes a pistol or portable device that uses electro-muscular disruption technology under this subsection, the individual has 45 days in which to display his or her license or documentation to an authorized employee of the law enforcement entity that employs the peace officer. If the individual displays his or her license or documentation to an authorized employee of the law enforcement entity that employs the peace officer within the 45-day period, the authorized employee of that law enforcement entity shall return the pistol or portable device that uses electro-muscular disruption technology to the individual unless the individual is prohibited by law from possessing a firearm or portable device that uses electro-muscular disruption technology. If the individual does not display his or her license or documentation within the 45-day period, the pistol or portable device that uses electro-muscular disruption technology is subject to forfeiture as provided in section 5g. A pistol or portable device that uses electro-muscular disruption technology is not subject to immediate seizure under this subsection if both of the following circumstances exist:

(a) The individual has his or her state-issued driver license or personal identification card in his or her possession when the violation occurs.

(b) The peace officer verifies through the law enforcement information network that the individual is licensed to carry a concealed pistol.

(8) As used in this section, "peace officer" includes a motor carrier officer appointed under section 6d of 1935 PA 59, MCL 28.6d, and security personnel employed by the state under section 6c of 1935 PA 59, MCL 28.6c.

History: Add. 2000, Act 381, Eff. July 1, 2001 ;-- Am. 2002, Act 719, Eff. July 1, 2003 ;-- Am. 2008, Act 194, Eff. Jan. 7, 2009 ;-- Am.

2012, Act 123, Eff. Aug. 6, 2012 ;-- Am. 2015, Act 3, Eff. Dec. 1, 2015
Popular Name: CCW
Popular Name: Concealed Weapons
Popular Name: CPL
Popular Name: Right to Carry
Popular Name: Shall Issue

28.425g Pistol or portable device that uses electro-muscular disruption technology; subject to seizure and forfeiture; exception.

Sec. 5g.

A pistol or portable device that uses electro-muscular disruption technology carried in violation of this act is subject to seizure and forfeiture in the same manner that property is subject to seizure and forfeiture under sections 4701 to 4709 of the revised judicature act of 1961, 1961 PA 236, MCL 600.4701 to 600.4709. This section does not apply if the violation is a state civil infraction under section 5f unless the individual fails to present his or her license within the 45-day period described in that section.

History: Add. 2000, Act 381, Eff. July 1, 2001 ;-- Am. 2012, Act 123, Eff. Aug. 6, 2012
Popular Name: CCW
Popular Name: Concealed Weapons
Popular Name: CPL
Popular Name: Right to Carry
Popular Name: Shall Issue

28.425h Expiration of license issued under former law; renewal license.

Sec. 5h.

(1) An individual who is licensed to carry a concealed pistol on the effective date of the amendatory act that added this section may carry a concealed pistol under that license until the license expires or the individual's authority to carry a concealed pistol under that license is otherwise terminated, whichever occurs first.

(2) An individual who is licensed under this act to carry a concealed pistol on the effective date of the amendatory act that added this section may apply for a renewal license upon the expiration of that license as provided in section 5l.

History: Add. 2000, Act 381, Eff. July 1, 2001
Popular Name: CCW
Popular Name: Concealed Weapons
Popular Name: CPL
Popular Name: Right to Carry
Popular Name: Shall Issue

28.425i Instruction or training; liability.

Sec. 5i.

(1) A person or entity that provides instruction or training to another person under section 5b is immune from civil liability for damages to any person or property caused by the person who was trained.

(2) This section does not apply if the person or entity providing the instruction or training was grossly negligent.

(3) This section is in addition to and not in lieu of immunity otherwise provided by law.

History: Add. 2000, Act 381, Eff. July 1, 2001
Popular Name: CCW
Popular Name: Concealed Weapons
Popular Name: CPL
Popular Name: Right to Carry
Popular Name: Shall Issue

28.425j Pistol training or safety program; conditions; prohibited conduct; violation of subsection (3) as felony; certificate of completion.

Sec. 5j.

(1) A pistol training or safety program described in section 5b(7)(c) meets the requirements for knowledge or training in the safe use and handling of a pistol only if the training was provided within 5 years preceding the date of application and consisted of not less than 8 hours of instruction and all of the following conditions are met:

(a) The program is certified by this state or a national or state firearms training organization and provides 5 hours of instruction in, but is not limited to providing instruction in, all of the following:

(i) The safe storage, use, and handling of a pistol including, but not limited to, safe storage, use, and handling to protect child safety.

(ii) Ammunition knowledge, and the fundamentals of pistol shooting.

(iii) Pistol shooting positions.

(iv) Firearms and the law, including civil liability issues and the use of deadly force. This portion must be taught by an attorney or an individual trained in the use of deadly force.

(v) Avoiding criminal attack and controlling a violent confrontation.

(vi) All laws that apply to carrying a concealed pistol in this state.

(b) The program provides at least 3 hours of instruction on a firing range and requires firing at least 30 rounds of ammunition.

(c) The program provides a certificate of completion that states the program complies with the requirements of this section and that the individual successfully completed the course, and that contains the printed name and original handwritten signature of the course instructor. The certificate of completion must contain the statement, "This course complies with section 5j of 1927 PA 372.". For certificates issued on or after December 1, 2015, each certificate must also contain both of the following, which must be printed on the face of the certificate or attached in a separate document:

(i) The instructor's name and telephone number.

(ii) The name and telephone number of the state agency or a state or national firearms training organization that has certified the individual as an instructor for purposes of this section, his or her instructor certification number, if any, and the expiration date of that certification.

(d) The instructor of the course is certified by this state or a state or national firearms training organization to teach the pistol safety training courses described in this section. The county clerk shall not require any other certification or require an instructor to register with the county or county clerk.

(2) A training certificate that does not meet the requirements under state law applicable at the time the certification was issued may otherwise meet the requirements of subsection (1)(c) if the applicant provides information that reasonably demonstrates that the certificate or the training meets the applicable requirements.

(3) A person shall not do either of the following:

(a) Grant a certificate of completion described under subsection (1)(c) to an individual knowing the individual did not satisfactorily complete the course.

(b) Present a certificate of completion described under subsection (1)(c) to a county clerk knowing that the individual did not satisfactorily complete the course.

(4) A person who violates subsection (3) is guilty of a felony punishable by imprisonment for not more than 4 years or a fine of not more than $2,500.00, or both.

(5) A county clerk shall not require that a specific form, color, wording, or other content appear on a certificate of completion, except as otherwise required under this act.

History: Add. 2000, Act 381, Eff. July 1, 2001 ;-- Am. 2002, Act 719, Eff. July 1, 2003 ;-- Am. 2004, Act 254, Imd. Eff. July 23, 2004 ;-- Am. 2015, Act 3, Eff. Dec. 1, 2015 ;-- Am. 2017, Act 95, Eff. Oct. 11, 2017
Popular Name: CCW
Popular Name: Concealed Weapons
Popular Name: CPL
Popular Name: Right to Carry

28.425k Acceptance of license as implied consent to submit to chemical analysis of breath, blood, or urine; collection and testing; refusal to take chemical test; definitions.

Sec. 5k.

(1) Acceptance of a license issued under this act to carry a concealed pistol constitutes implied consent to submit to a chemical analysis under this section. This section also applies to individuals listed in section 12a.

(2) An individual shall not carry a concealed pistol or portable device that uses electro-muscular disruption technology while he or she is under the influence of alcoholic liquor or a controlled substance or while having a bodily alcohol content prohibited under this section. An individual who violates this section is responsible for a state civil infraction or guilty of a crime as follows:

(a) If the person was under the influence of alcoholic liquor or a controlled substance or a combination of alcoholic liquor and a controlled substance, or had a bodily alcohol content of .10 or more grams per 100 milliliters of blood, per 210 liters of breath, or per 67 milliliters of urine, the individual is guilty of a misdemeanor punishable by imprisonment for not more than 93 days or $100.00, or both. The court shall order the county clerk in the county in which the individual was issued a license to carry a concealed pistol to revoke the license. The county clerk shall notify the department of state police of the revocation in a manner prescribed by the department of state police. The department of state police shall immediately enter that revocation into the law enforcement information network.

(b) If the person had a bodily alcohol content of .08 or more but less than .10 grams per 100 milliliters of blood, per 210 liters of breath, or per 67 milliliters of urine, the individual is guilty of a misdemeanor punishable by imprisonment for not more than 93 days or $100.00, or both. The court shall order the county clerk in the county in which the individual was issued a license to carry a concealed pistol to suspend the license for 3 years. The county clerk shall notify the department of state police of that suspension in a manner prescribed by the department of state police. The department of state police shall immediately enter that suspension into the law enforcement information network.

(c) If the person had a bodily alcohol content of .02 or more but less than .08 grams per 100 milliliters of blood, per 210 liters of breath, or per 67 milliliters of urine, the individual is responsible for a state civil infraction and shall be fined $100.00. The peace officer shall notify the department of state police of a civil infraction under this subdivision. The department of state police shall notify the county clerk in the county in which the individual was issued the license, who shall suspend the license for 1 year. The department of state police shall immediately enter that suspension into the law enforcement information network.

(3) This section does not prohibit an individual licensed under this act to carry a concealed pistol who has any bodily alcohol content from doing any of the following:

(a) Transporting that pistol in the locked trunk of his or her motor vehicle or another motor vehicle in which he or she is a passenger or, if the vehicle does not have a trunk, from transporting that pistol unloaded in a locked compartment or container that is separated from the ammunition for that pistol.

(b) Transporting that pistol on a vessel if the pistol is transported unloaded in a locked compartment or container that is separated from the ammunition for that pistol.

(c) Transporting a portable device using electro-muscular disruption technology in the locked trunk of his or her motor vehicle or another motor vehicle in which he or she is a passenger, or, if the vehicle does not have a trunk, from transporting that portable device in a locked compartment or container.

(d) Transporting a portable device using electro-muscular disruption technology on a vessel if the portable device is transported in a locked compartment or container.

(4) A peace officer who has probable cause to believe an individual is carrying a concealed pistol or a portable device using electro-muscular disruption technology in violation of this section may require the individual to submit to a chemical analysis of his or her breath, blood, or urine.

(5) Before an individual is required to submit to a chemical analysis under subsection (4), the peace officer shall inform the individual of all of the following:

(a) The individual may refuse to submit to the chemical analysis, but if he or she chooses to do so, all of the following apply:

(i) The officer may obtain a court order requiring the individual to submit to a chemical analysis.

(ii) The refusal shall result in his or her license to carry a concealed pistol being suspended for 6 months.

(b) If the individual submits to the chemical analysis, he or she may obtain a chemical analysis described in subsection (4) from a person of his or her own choosing.

(6) The collection and testing of breath, blood, and urine specimens under this section shall be conducted in the

same manner that breath, blood, and urine specimens are collected and tested for alcohol- and controlled-substance-related driving violations under the Michigan vehicle code, 1949 PA 300, MCL 257.1 to 257.923.

(7) If a person refuses to take a chemical test authorized under this section, the person is responsible for a state civil infraction and shall be fined $100.00. A peace officer shall promptly report the refusal in writing to the department of state police. The department of state police shall notify the county clerk in the county in which the license was issued, who shall suspend the license for 6 months. The department of state police shall immediately enter that suspension into the law enforcement information network.

(8) As used in this section:

(a) "Alcoholic liquor" means that term as defined in section 105 of the Michigan liquor control code of 1998, 1998 PA 58, MCL 436.1105.

(b) "Controlled substance" means that term as defined in section 7104 of the public health code, 1978 PA 368, MCL 333.7104.

(c) "Under the influence of alcoholic liquor or a controlled substance" means that the individual's ability to properly handle a pistol or to exercise clear judgment regarding the use of that pistol was substantially and materially affected by the consumption of alcoholic liquor or a controlled substance.

History: Add. 2000, Act 381, Eff. July 1, 2001 ;-- Am. 2012, Act 123, Eff. Aug. 6, 2012 ;-- Am. 2015, Act 3, Eff. Dec. 1, 2015
Popular Name: CCW
Popular Name: Concealed Weapons
Popular Name: CPL
Popular Name: Right to Carry
Popular Name: Shall Issue

28.425l License; validity; duration; renewal; waiver of educational requirements; fingerprints.

Sec. 5l.

(1) A license to carry a concealed pistol, including a renewal license, is valid until the applicant's date of birth that falls not less than 4 years or more than 5 years after the license is issued or renewed, as applicable. The county clerk shall notify the licensee that his or her license is about to expire and may be renewed as provided in this section. The notification must be sent by the county clerk to the last known address of the licensee as shown on the records of the county clerk. The notification must be sent in a sealed envelope by first-class mail not less than 3 months or more than 6 months before the expiration date of the current license. Except as provided in this section, a renewal of a license under section 5b must be issued in the same manner as an original license issued under section 5b. An applicant is eligible for a renewal of a license under this section if his or her license is not expired, or expired within a 1-year period before the date of application under this section. Each applicant who submits an application for a renewal license to a county clerk under this section shall pay an application and licensing fee of $115.00 by any method of payment accepted by that county for payments of other fees and penalties. No other charge, fee, cost, or assessment, including any local charge, fee, cost, or assessment, is required of the applicant except as specifically authorized in this act. The applicant shall pay the application and licensing fee to the county. The county treasurer shall deposit $36.00 of each fee collected under this subsection in the concealed pistol licensing fund of that county created in section 5x. The county treasurer shall forward the balance remaining to the state treasurer. The state treasurer shall deposit the balance of the fee in the general fund to the credit of the department of state police.

(2) Subject to subsections (9) and (10), an application to renew a license to carry a concealed pistol may be submitted not more than 6 months before the expiration of the current license. No later than December 1, 2018, the department of state police shall provide a system for an applicant to submit his or her application to renew a license to carry a concealed pistol online or by first-class mail and shall accept those applications on behalf of the county clerk as required under this act at no additional charge. Each applicant who submits a renewal license online or by first-class mail to the department of state police under this section shall pay an application and licensing fee of $115.00 by any method of payment accepted by the department of state police. No other charge, fee, cost, or assessment is required of the applicant except as specifically authorized in this act. The applicant shall pay the application and licensing fee to the state. The state treasurer shall forward $36.00 of each fee collected under this subsection to the county treasurer who shall deposit the $36.00 in the concealed pistol licensing fund of that county created in section 5x. The state treasurer shall deposit the balance of the fee in the general fund to the credit of the department of state police. The department of state police shall notify the county clerk of the county in which the applicant resides of a properly submitted online application or application by first-class mail received by the department. If the county clerk issues a renewal license under this section, the county clerk shall send the license to

the licensee by first-class mail in a sealed envelope. If the county clerk issues the renewal, the effective date of the renewal license is the date of expiration of the current license or the date of approval or issue of the renewal, whichever is later, and the date of expiration is the applicant's date of birth which is not less than 4 years or more than 5 years from the effective date of the license.

(3) The department of state police shall complete the verification required under section 5b(6) and the county clerk shall issue a renewal license or a notice of statutory disqualification within 30 days after the date the renewal application was received. Beginning on the date the department of state police establishes a system under subsection (2), the department of state police shall provide an applicant a digital receipt, or a receipt by first-class mail if requested, for his or her renewal application submitted online at the time the application is received by the department of state police. Beginning on the date the department of state police establishes a system under subsection (2), the department of state police shall mail an applicant a receipt by first-class mail for his or her renewal application submitted by first-class mail at the time the application is received by the department of state police. The receipt issued under this subsection to an individual applying for a renewal license whose current license is not expired at the time of application must contain all of the following:

(a) The name of the applicant.

(b) The date and time the receipt is issued.

(c) The amount paid.

(d) The applicant's state-issued driver license or personal identification card number.

(e) The statement "This receipt was issued for the purpose of renewal of a concealed pistol license. As provided in section 5l of 1927 PA 372, MCL 28.425l, this receipt shall serve as a concealed pistol license for the individual named in the receipt when carried with the expired license and is valid until a license or notice of statutory disqualification is issued by the county clerk. This receipt does not exempt the individual named in the receipt from complying with all applicable laws for the purchase of firearms.".

(f) The name of the county in which the receipt is issued, if applicable.

(g) An impression of the county seal, if applicable.

(4) The receipt issued under subsection (3) to an individual applying for a renewal license whose license is expired must contain all of the following:

(a) The name of the applicant.

(b) The date and time the receipt is issued.

(c) The amount paid.

(d) The applicant's state-issued driver license or personal identification card number.

(e) The statement "This receipt was issued for the purpose of renewal of a concealed pistol license. As provided in section 5l of 1927 PA 372, MCL 28.425l, if a license or notice of statutory disqualification is not issued within 30 days after the date this receipt was issued, this receipt shall serve as a concealed pistol license for the individual named in the receipt when carried with an official state-issued driver license or personal identification card. The receipt is valid as a license until a license or a notice of statutory disqualification is issued by the county clerk. This receipt does not exempt the individual named in the receipt from complying with all applicable laws for the purchase of firearms.".

(5) Until November 30, 2018, a member of the United States Armed Forces, the United States Armed Forces Reserve, or the Michigan National Guard who is on orders to a duty station outside of this state may submit his or her application to renew a license to carry a concealed pistol by first-class mail, containing the required fee, a notarized application, the licensee's address of record within the state, the licensee's orders to report to a duty station outside of this state, and if the licensee desires to have his or her application receipt, renewal license, or any other notices mailed to his or her address of assignment or deployment, a letter requesting that action including the address of assignment or deployment. If the county clerk issues a renewal license under this section, the county clerk shall send the license to the licensee by first-class mail in a sealed envelope. If the licensee is a member of the United States Armed Forces, the United States Armed Forces Reserve, or the Michigan National Guard who is on orders to a duty station outside of this state and requests that his or her license be sent to the address of assignment or deployment, the county clerk shall mail the license to the licensee at the address of assignment or deployment provided in the renewal application. Until November 30, 2018, if a renewal application is submitted by a member of the United States Armed Forces, the United States Armed Forces Reserve, or the Michigan National Guard who is on orders to a duty station outside of this state, the county clerk shall mail a receipt to the licensee by first-class mail.

(6) If an individual applies for a renewal license before the expiration of his or her license, the expiration date of the current license is extended until the renewal license or notice of statutory disqualification is issued. The county clerk shall notify the department of state police in a manner prescribed by the department of state police after he or she receives an application for renewal. The department of state police shall immediately enter into the law enforcement information network the date that application for renewal was submitted and that the renewal application is pending.

(7) A person carrying a concealed pistol after the expiration date of his or her license under an extension under subsection (6) shall keep the receipt issued by the county clerk under subsection (3) and his or her expired license in

his or her possession at all times that he or she is carrying the pistol. For the purposes of this act, the receipt is considered to be part of the license to carry a concealed pistol until a renewal license is issued or denied or a notice of statutory disqualification is issued.

(8) The educational requirements under section 5b(7)(c) are waived for an applicant who is a retired police officer or retired law enforcement officer.

(9) The educational requirements under section 5b(7)(c) for an applicant who is applying for a renewal of a license under this act are waived except that the applicant shall certify that he or she has completed at least 3 hours' review of the training described under section 5b(7)(c) and has had at least 1 hour of firing range time in the 6 months immediately preceding the subsequent application. The educational and firing range requirements of this subsection are met if the applicant certifies on the renewal application form that he or she has complied with the requirements of this subsection. An applicant is not required to verify the statements made under this subsection and is not required to obtain a certificate or undergo training other than as required by this subsection.

(10) An applicant who is applying for a renewal of a license issued under section 5b is not required to have fingerprints taken again under section 5b(9) if all of the following conditions have been met:

(a) There has been established a system for the department of state police to save and maintain in its automated fingerprint identification system (AFIS) database all fingerprints that are submitted to the department of state police under section 5b.

(b) The applicant's fingerprints have been submitted to and maintained by the department of state police as described in subdivision (a) for ongoing comparison with the automated fingerprint identification system (AFIS) database.

History: Add. 2000, Act 381, Eff. July 1, 2001 ;-- Am. 2002, Act 719, Eff. July 1, 2003 ;-- Am. 2005, Act 262, Eff. July 1, 2006 ;-- Am. 2006, Act 92, Eff. July 1, 2006 ;-- Am. 2006, Act 184, Imd. Eff. June 19, 2006 ;-- Am. 2006, Act 456, Imd. Eff. Dec. 20, 2006 ;-- Am. 2008, Act 406, Imd. Eff. Jan. 6, 2009 ;-- Am. 2012, Act 32, Imd. Eff. Feb. 28, 2012 ;-- Am. 2015, Act 3, Eff. June 2, 2015 ;-- Am. 2017, Act 95, Eff. Oct. 11, 2017
Popular Name: CCW
Popular Name: Concealed Weapons
Popular Name: CPL
Popular Name: Right to Carry
Popular Name: Shall Issue

28.425m Repealed. 2015, Act 3, Eff. June 2, 2015.

Compiler's Notes: The repealed section pertained to notification to county concealed weapon licensing board of criminal charge against license holder.
Popular Name: CCW
Popular Name: Concealed Weapons
Popular Name: CPL
Popular Name: Right to Carry
Popular Name: Shall Issue

28.425n Other license or permit; limitations by employer prohibited.

Sec. 5n.

(1) This state or a local unit of government of this state shall not prohibit an individual from doing either of the following as a condition for receiving or maintaining any other license or permit authorized by law:

(a) Applying for or receiving a license to carry a concealed pistol under this act.

(b) Carrying a concealed pistol in compliance with a license issued under this act.

(2) Except as provided in subsection (3), an employer shall not prohibit an employee from doing either of the following:

(a) Applying for or receiving a license to carry a concealed pistol under this act.

(b) Carrying a concealed pistol in compliance with a license issued under this act. This subdivision does not prohibit an employer from prohibiting an employee from carrying a concealed pistol in the course of his or her employment with that employer.

(3) A police agency may prohibit an employee of that police agency from carrying a concealed pistol if carrying a concealed pistol would result in increased insurance premiums or a loss or reduction of insurance coverage for that employer.

History: Add. 2000, Act 381, Eff. July 1, 2001
Popular Name: CCW
Popular Name: Concealed Weapons
Popular Name: CPL
Popular Name: Right to Carry
Popular Name: Shall Issue

28.425o Premises on which carrying concealed weapon or portable device that uses electro-muscular disruption technology prohibited; "premises" defined; exceptions to subsections (1) and (2); violation; penalties.

Sec. 5o.

(1) Subject to subsection (5), an individual licensed under this act to carry a concealed pistol, or who is exempt from licensure under section 12a(h), shall not carry a concealed pistol on the premises of any of the following:

(a) A school or school property except that a parent or legal guardian of a student of the school is not precluded from carrying a concealed pistol while in a vehicle on school property, if he or she is dropping the student off at the school or picking up the student from the school. As used in this section, "school" and "school property" mean those terms as defined in section 237a of the Michigan penal code, 1931 PA 328, MCL 750.237a.

(b) A public or private child care center or day care center, public or private child caring institution, or public or private child placing agency.

(c) A sports arena or stadium.

(d) A bar or tavern licensed under the Michigan liquor control code of 1998, 1998 PA 58, MCL 436.1101 to 436.2303, where the primary source of income of the business is the sale of alcoholic liquor by the glass and consumed on the premises. This subdivision does not apply to an owner or employee of the business. The Michigan liquor control commission shall develop and make available to holders of licenses under the Michigan liquor control code of 1998, 1998 PA 58, MCL 436.1101 to 436.2303, an appropriate sign stating that "This establishment prohibits patrons from carrying concealed weapons". The owner or operator of an establishment licensed under the Michigan liquor control code of 1998, 1998 PA 58, MCL 436.1101 to 436.2303, may post the sign developed under this subdivision.

(e) Any property or facility owned or operated by a church, synagogue, mosque, temple, or other place of worship, unless the presiding official or officials of the church, synagogue, mosque, temple, or other place of worship permit the carrying of concealed pistol on that property or facility.

(f) An entertainment facility with a seating capacity of 2,500 or more individuals that the individual knows or should know has a seating capacity of 2,500 or more individuals or that has a sign above each public entrance stating in letters not less than 1-inch high a seating capacity of 2,500 or more individuals.

(g) A hospital.

(h) A dormitory or classroom of a community college, college, or university.

(2) Subject to subsection (5), an individual shall not carry a portable device that uses electro-muscular disruption technology on any of the premises described in subsection (1).

(3) An individual licensed under this act to carry a concealed pistol, or who is exempt from licensure under section 12a(h), shall not carry a concealed pistol in violation of R 432.1212 of the Michigan Administrative Code promulgated under the Michigan gaming control and revenue act, 1996 IL 1, MCL 432.201 to 432.226.

(4) As used in subsection (1), "premises" does not include parking areas of the places identified under subsection (1).

(5) Subsections (1) and (2) do not apply to any of the following:

(a) An individual licensed under this act who is a retired police officer, retired law enforcement officer, or retired federal law enforcement officer.

(b) An individual who is licensed under this act and who is employed or contracted by an entity described under subsection (1) to provide security services and is required by his or her employer or the terms of a contract to carry a concealed firearm on the premises of the employing or contracting entity.

(c) An individual who is licensed as a private investigator or private detective under the professional investigator licensure act, 1965 PA 285, MCL 338.821 to 338.851.

(d) An individual who is licensed under this act and who is a corrections officer of a county sheriff's department

or who is licensed under this act and is a retired corrections officer of a county sheriff's department, if that individual has received county sheriff approved weapons training.

(e) An individual who is licensed under this act and who is a motor carrier officer or capitol security officer of the department of state police.

(f) An individual who is licensed under this act and who is a member of a sheriff's posse.

(g) An individual who is licensed under this act and who is an auxiliary officer or reserve officer of a police or sheriff's department.

(h) An individual who is licensed under this act and who is any of the following:

(i) A parole, probation, or corrections officer, or absconder recovery unit member, of the department of corrections, if that individual has obtained a Michigan department of corrections weapons permit.

(ii) A retired parole, probation, or corrections officer, or retired absconder recovery unit member, of the department of corrections, if that individual has obtained a Michigan department of corrections weapons permit.

(i) A state court judge or state court retired judge who is licensed under this act.

(j) An individual who is licensed under this act and who is a court officer.

(k) An individual who is licensed under this act and who is a peace officer.

(6) An individual who violates this section is responsible for a state civil infraction or guilty of a crime as follows:

(a) Except as provided in subdivisions (b) and (c), the individual is responsible for a state civil infraction and may be fined not more than $500.00. The court shall order the individual's license to carry a concealed pistol suspended for 6 months.

(b) For a second violation, the individual is guilty of a misdemeanor punishable by a fine of not more than $1,000.00. The court shall order the individual's license to carry a concealed pistol revoked.

(c) For a third or subsequent violation, the individual is guilty of a felony punishable by imprisonment for not more than 4 years or a fine of not more than $5,000.00, or both. The court shall order the individual's license to carry a concealed pistol revoked.

History: Add. 2000, Act 381, Eff. July 1, 2001 ;-- Am. 2002, Act 719, Eff. July 1, 2003 ;-- Am. 2008, Act 194, Eff. Jan. 7, 2009 ;-- Am. 2008, Act 406, Imd. Eff. Jan. 6, 2009 ;-- Am. 2008, Act 407, Eff. Apr. 6, 2009 ;-- Am. 2012, Act 123, Eff. Aug. 6, 2012 ;-- Am. 2014, Act 206, Eff. Dec. 21, 2014 ;-- Am. 2015, Act 3, Eff. Dec. 1, 2015 ;-- Am. 2015, Act 16, Eff. July 13, 2015 ;-- Am. 2015, Act 206, Eff. Dec. 1, 2015 ;-- Am. 2017, Act 95, Eff. Oct. 11, 2017
Popular Name: CCW
Popular Name: Concealed Weapons
Popular Name: CPL
Popular Name: Right to Carry
Popular Name: Shall Issue

28.425v Concealed weapon enforcement fund; creation; disposition of funds; lapse; expenditures.

Sec. 5v.

(1) The concealed weapon enforcement fund is created in the state treasury.

(2) The state treasurer may receive money or other assets from any source for deposit into the fund. The state treasurer shall direct the investment of the fund. The state treasurer shall credit to the fund interest and earnings from fund investments.

(3) Money in the fund at the close of the fiscal year shall remain in the fund and shall not lapse to the general fund.

(4) The department of state police shall expend money from the fund only to provide training to law enforcement personnel regarding the rights and responsibilities of individuals who are licensed to carry concealed pistols in this state and proper enforcement techniques in light of those rights and responsibilities.

History: Add. 2000, Act 381, Eff. July 1, 2001
Popular Name: CCW
Popular Name: Concealed Weapons
Popular Name: CPL
Popular Name: Right to Carry
Popular Name: Shall Issue

28.425w Appropriation; amount; purpose; total state spending; appropriations and expenditures subject to MCL 18.1101 to 18.1594.

Sec. 5w.

(1) One million dollars is appropriated from the general fund to the department of state police for the fiscal year ending September 30, 2001 for all of the following:

(a) Distributing trigger locks or other safety devices for firearms to the public free of charge.

(b) Providing concealed pistol application kits to county sheriffs, local police agencies, and county clerks for distribution under section 5.

(c) The fingerprint analysis and comparison reports required under section 5b(11).

(d) Photographs required under section 5c.

(e) Creating and maintaining the database required under section 5e.

(f) Creating and maintaining a database of firearms that have been reported lost or stolen. Information in the database shall be made available to law enforcement through the law enforcement information network.

(g) Grants to county concealed weapon licensing boards for expenditure only to implement this act.

(h) Training under section 5v(4).

(i) Creating and distributing the reporting forms required under section 5m.

(j) A public safety campaign regarding the requirements of this act.

(2) Pursuant to section 30 of article IX of the state constitution of 1963, total state spending under subsection (1) for the fiscal year ending September 30, 2001 is $1,000,000.00.

(3) The appropriations made and the expenditures authorized under this section and the departments, agencies, commissions, boards, offices, and programs for which an appropriation is made under this section are subject to the management and budget act, 1984 PA 431, MCL 18.1101 to 18.1594.

History: Add. 2000, Act 381, Eff. July 1, 2001
Popular Name: CCW
Popular Name: Concealed Weapons
Popular Name: CPL
Popular Name: Right to Carry
Popular Name: Shall Issue

28.425x Concealed pistol licensing fund.

Sec. 5x.

(1) Each county shall establish a concealed pistol licensing fund for the deposit of fees collected for the county clerk under this act. The county treasurer shall direct investment of the concealed pistol licensing fund and shall credit to the fund interest and earnings from fund investments.

(2) Money credited to the county concealed pistol licensing fund shall be expended in compliance with the uniform budgeting and accounting act, 1968 PA 2, MCL 141.421 to 141.440a, subject to an appropriation. Expenditures from the county concealed pistol licensing fund shall be used by the county clerk only for the cost of administering this act. Allowable expenditures include, but are not limited to, any of the following costs of the county clerk:

(a) Staffing requirements directly attributable to performing functions required under this act.

(b) Technology upgrades, including technology to take fingerprints by electronic means.

(c) Office supplies.

(d) Document storage and retrieval systems and system upgrades.

History: Add. 2015, Act 3, Eff. June 2, 2015
Popular Name: CCW
Popular Name: Concealed Weapons
Popular Name: CPL
Popular Name: Right to Carry
Popular Name: Shall Issue

28.426 Issuance of license; conditions.

Sec. 6.

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

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

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

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

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

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

History: Add. 2005, Act 242, Imd. Eff. Nov. 22, 2005 ;-- Am. 2017, Act 95, Eff. Oct. 11, 2017
Compiler's Notes: Former MCL 28.426, which pertained to concealed weapon licensing board, was repealed by Act 381 of 200, Eff. July 1, 2001.
Popular Name: CCW
Popular Name: Concealed Weapons
Popular Name: CPL
Popular Name: Right to Carry
Popular Name: Shall Issue

28.426a Repealed. 2015, Act 3, Eff. June 2, 2015.

Compiler's Notes: The repealed section pertained to license to equip premises or vehicle with gas ejecting device or authorize manufacture or sale of gas ejecting device.
Popular Name: CCW
Popular Name: Concealed Weapons
Popular Name: CPL
Popular Name: Right to Carry
Popular Name: Shall Issue
Popular Name: R 28.91 and R 28.92 of the Michigan Administrative Code

28.427 Concealed weapons licenses; expiration.

Sec. 7.

All licenses heretofore issued in this state permitting a person to carry a pistol concealed upon his person shall expire at midnight, December 31, 1927.

History: 1927, Act 372, Eff. Sept. 5, 1927 ;-- CL 1929, 16756 ;-- CL 1948, 28.427
Popular Name: CCW
Popular Name: Concealed Weapons
Popular Name: CPL
Popular Name: Right to Carry
Popular Name: Shall Issue

28.428 Suspension, revocation, or reinstatement of license; notice; surrender of license; order or amended order; entry into law enforcement information network; effect of suspension or revocation order; failure to receive notice.

Sec. 8.

(1) The county clerk in the county in which a license was issued to an individual to carry a concealed pistol shall suspend, revoke, or reinstate a license as required under this act if ordered by a court or if the county clerk is notified by a law enforcement agency, prosecuting official, or court of a change in the licensee's eligibility to carry a concealed pistol under this act.

(2) If a county clerk is notified by a law enforcement agency, prosecuting official, or court that an individual licensed to carry a concealed pistol is charged with a felony or charged with a misdemeanor listed in section 5b(7)(h) or (i), the county clerk shall immediately suspend the individual's license until there is a final disposition of the charge for that offense. The county clerk shall send notice by first-class mail in a sealed envelope of that suspension to the individual's last known address as indicated in the records of the county clerk. The notice must include the statutory reason for the suspension, the source of the record supporting that suspension, the length of the suspension, and whom to contact for reinstating the license on expiration of the suspension, correcting errors in the record, or appealing the suspension. If a county clerk suspended a license under this subsection and the individual is acquitted of the charge or the charge is dismissed, the individual shall notify the county clerk who shall automatically reinstate the license if the license is not expired and the individual is otherwise qualified to receive a license to carry a concealed pistol, as verified by the department of state police. A county clerk shall not charge a fee for the reinstatement of a license under this subsection.

(3) The department of state police shall notify the county clerk in the county in which a license was issued to an individual to carry a concealed pistol if the department of state police determines that there has been a change in the individual's eligibility under this act to receive a license to carry a concealed pistol. The county clerk shall suspend, revoke, or reinstate the license as required under this act and immediately send notice of the suspension, revocation, or reinstatement under this subsection by first-class mail in a sealed envelope to the individual's last known address as indicated on the records of the county clerk. The notice must include the statutory reason for the suspension, revocation, or reinstatement, the source of the record supporting the suspension, revocation, or reinstatement, the length of the suspension or revocation, and whom to contact for correcting errors in the record, appealing the suspension or revocation, and reapplying for that individual's license. The department of state police shall immediately enter that suspension, revocation, or reinstatement into the law enforcement information network.

(4) If a suspension is imposed under this section, the suspension must be for a period stated in years, months, or days, or until the final disposition of the charge, and state the date the suspension will end, if applicable. The licensee shall promptly surrender the individual's license to the county clerk after being notified that the individual's license has been revoked or suspended. An individual who fails to surrender a license as required under this subsection after the individual was notified that the individual's license was suspended or revoked is guilty of a misdemeanor punishable by imprisonment for not more than 93 days or a fine of not more than $500.00, or both.

(5) Except as otherwise provided in subsections (2) and (6), if a license is suspended under this section and that license was surrendered by the licensee, upon expiration of the suspension period, the applicant may apply for a renewal license in the same manner as provided under section 5l. The county clerk or department of state police, as applicable, shall issue the applicant a receipt for the individual's application at the time the application is submitted. The receipt must contain all of the following:

(a) The name of the applicant.

(b) The date and time the receipt is issued.

(c) The amount paid.

(d) The applicant's state-issued driver license or personal identification card number.

(e) The statement, "This receipt was issued for the purpose of applying for a renewal of a concealed pistol license following a period of suspension or revocation. This receipt does not authorize an individual to carry a concealed pistol in this state.".

(f) The name of the county in which the receipt is issued, if applicable.

(g) An impression of the county seal, if applicable.

(6) If a license is suspended because of an order under section 5b(7)(d)(iii) or 5b(7)(d)(vi) and that license was surrendered by the licensee, upon expiration of the order and notification to the county clerk, the county clerk shall automatically reinstate the license if the license is not expired and the department of state police has completed the verification required under section 5b(6). The county clerk shall not charge a fee for the reinstatement of a license under this subsection.

(7) If the court orders a county clerk to suspend, revoke, or reinstate a license under this section or amends a suspension, revocation, or reinstatement order, the county clerk shall immediately notify the department of state police in a manner prescribed by the department of state police. The department of state police shall enter the order

or amended order into the law enforcement information network.

(8) A suspension or revocation order or amended order issued under this section is immediately effective. However, an individual is not criminally liable for violating the order or amended order unless the individual has received notice of the order or amended order.

(9) If an individual is carrying a pistol in violation of a suspension or revocation order or amended order issued under this section but has not previously received notice of the order or amended order, the individual must be informed of the order or amended order and be given an opportunity to properly store the pistol or otherwise comply with the order or amended order before an arrest is made for carrying the pistol in violation of this act.

(10) If a law enforcement agency or officer notifies an individual of a suspension or revocation order or amended order issued under this section who has not previously received notice of the order or amended order, the law enforcement agency or officer shall enter a statement into the law enforcement information network that the individual has received notice of the order or amended order under this section.

History: 1927, Act 372, Eff. Sept. 5, 1927 ;-- CL 1929, 16757 ;-- CL 1948, 28.428 ;-- Am. 2000, Act 381, Eff. July 1, 2001 ;-- Am. 2008, Act 406, Imd. Eff. Jan. 6, 2009 ;-- Am. 2015, Act 3, Eff. Dec. 1, 2015 ;-- Am. 2015, Act 207, Eff. Dec. 1, 2015 ;-- Am. 2017, Act 95, Eff. Oct. 11, 2017 ;-- Am. 2023, Act 37, Eff. Feb. 13, 2024
Popular Name: CCW
Popular Name: Concealed Weapons
Popular Name: CPL
Popular Name: Right to Carry
Popular Name: Shall Issue

28.429 Firearm; safe storage requirements; penalties if minor obtains firearm; exceptions; literature for firearms dealers; definitions.

Sec. 9.

(1) An individual who stores or leaves a firearm unattended on premises under the individual's control, and who knows or reasonably should know that a minor is, or is likely to be, present on the premises, shall do 1 or more of the following:

(a) Store the firearm in a locked box or container.

(b) Keep the firearm unloaded and lock the firearm with a locking device that is properly engaged to render the firearm inoperable by any individual other than the owner or an authorized user.

(2) An individual who enters onto the premises of another individual, stores or leaves a firearm unattended on those premises, and who knows or reasonably should know that a minor is, or is likely to be, present on the premises, shall do 1 or more of the following:

(a) Store the firearm in a locked box or container.

(b) Keep the firearm unloaded and lock the firearm with a locking device that is properly engaged to render the firearm inoperable by any individual other than the owner or an authorized user.

(c) Before entering onto the premises, do both of the following:

(i) In the individual's motor vehicle, store the firearm in a locked box or container in that vehicle, or keep the firearm unloaded and lock the firearm with a locking device that is properly engaged to render the firearm inoperable by any individual other than the owner or an authorized user.

(ii) Lock the individual's motor vehicle.

(3) An individual is guilty of a misdemeanor punishable by imprisonment for not more than 93 days or a fine of not more than $500.00, or both, if the individual violates subsection (1) or (2) by failing to store or leave a firearm in the required manner and as a result of the violation both of the following occur:

(a) A minor obtains the firearm.

(b) The minor does either of the following:

(i) Possesses or exhibits the firearm in a public place.

(ii) Possesses or exhibits the firearm in the presence of another person in a careless, reckless, or threatening manner.

(4) If an individual violates subsection (1) or (2) by failing to store or leave a firearm in the required manner and, as a result of the violation, a minor obtains the firearm, discharges it and inflicts injury upon the minor or any other individual, the individual is guilty of a felony punishable by imprisonment for not more than 5 years or a fine of not more than $5,000.00, or both.

(5) If an individual violates subsection (1) or (2) by failing to store or leave a firearm in the required manner and, as a result of the violation, a minor obtains the firearm, discharges it and inflicts serious impairment of a body function upon the minor or any other individual, the individual is guilty of a felony punishable by not more than 10 years or a fine of not more than $7,500.00, or both.

(6) If an individual violates subsection (1) or (2) by failing to store or leave a firearm in the required manner and, as a result of the violation, a minor obtains the firearm, discharges it and inflicts death upon the minor or any other individual, the individual is guilty of a felony punishable by imprisonment for not more than 15 years or a fine of not more than $10,000.00, or both.

(7) This section does not apply under any of the following circumstances:

(a) A minor who does all of the following:

(i) Obtains a firearm with the permission of the minor's parent or guardian.

(ii) Uses or possesses the firearm while the minor is under the supervision of the minor's parent, guardian, or any individual who is 18 years of age or older and who is authorized by the person's parent or guardian.

(iii) Uses or possesses the firearm during any of the following:

(A) The minor's employment.

(B) Ranching or farming.

(C) Target practice or instruction in the safe use of a firearm.

(b) A minor who obtains a firearm with the permission of the minor's parent or guardian and who uses or possesses the firearm for the purposes of hunting if the minor is in compliance with all applicable hunting laws.

(c) A minor who obtains a firearm through the minor's unlawful entry of any premises or the motor vehicle where the firearm has been stored.

(d) A minor who obtains a firearm while lawfully acting in self-defense or defense of another.

(8) The department of health and human services shall do both of the following:

(a) In consultation with the department of attorney general, inform the public of the penalties for failing to store or leave a firearm in the manner required under this section.

(b) Publish lethal means counseling literature and provide that literature to federally licensed firearms dealers for use under section 15.

(9) A criminal penalty provided for under this section may be imposed in addition to any penalty that may be imposed for any other criminal offense arising from the same conduct.

(10) As used in this section:

(a) "Locked box or container" means a secure container, specifically designed for the storage of firearms, that is fully enclosed and locked by a padlock, key lock, combination lock, or similar locking device to which a minor does not possess the key or combination, or otherwise have access.

(b) "Locking device" means a trigger lock, cable lock, or similar lock that prevents a firearm from discharging.

(c) "Minor" means an individual less than 18 years of age.

(d) "Serious impairment of a body function" means that term as defined in section 58c of the Michigan vehicle code, 1949 PA 300, MCL 257.58c.

History: Add. 2023, Act 17, Eff. Feb. 13, 2024
Compiler's Notes: Former MCL 28.429, which pertained to safety inspection requirements for pistols, was repealed by Act 195 of 2008, Eff. Jan 7, 2009.
Popular Name: CCW
Popular Name: Concealed Weapons
Popular Name: CPL
Popular Name: Right to Carry
Popular Name: Shall Issue

28.429a Repealed. 2012, Act 377, Imd. Eff. Dec. 18, 2012.

Compiler's Notes: The repealed section pertained to approval of basic pistol safety pamphlet and questionnaire by department of state police.
Popular Name: CCW
Popular Name: Concealed Weapons
Popular Name: CPL
Popular Name: Right to Carry
Popular Name: Shall Issue

28.429b Repealed. 2012, Act 377, Imd. Eff. Dec. 18, 2012.

Compiler's Notes: The repealed section pertained to printing and distribution of basic pistol safety pamphlet and questionnaire by department of state police.
Popular Name: CCW
Popular Name: Concealed Weapons
Popular Name: CPL
Popular Name: Right to Carry
Popular Name: Shall Issue

28.429c Repealed. 2012, Act 377, Imd. Eff. Dec. 18, 2012.

Compiler's Notes: The repealed section pertained to distribution of basic pistol safety pamphlet and questionnaire.
Popular Name: CCW
Popular Name: Concealed Weapons
Popular Name: CPL
Popular Name: Right to Carry
Popular Name: Shall Issue

28.429d Repealed. 2000, Act 381, Eff. July 1, 2001.

Compiler's Notes: The repealed section pertained to forfeiture of firearm.
Popular Name: CCW
Popular Name: Concealed Weapons
Popular Name: CPL
Popular Name: Right to Carry
Popular Name: Shall Issue

28.430 Theft of firearm; report required; failure to report theft as civil violation; penalty.

Sec. 10.

(1) A person who owns a firearm shall, within 5 days after he or she knows his or her firearm is stolen, report the theft to a police agency having jurisdiction over that theft.

(2) A person who fails to report the theft of a firearm as required under subsection (1) is responsible for a civil violation and may be fined not more than $500.00.

History: Add. 1990, Act 320, Eff. Mar. 28, 1991
Compiler's Notes: Former sections 10 and 11 were not compiled.
Popular Name: CCW
Popular Name: Concealed Weapons
Popular Name: CPL
Popular Name: Right to Carry
Popular Name: Shall Issue

28.431 Repealed. 2012, Act 377, Imd. Eff. Dec. 18, 2012.

Compiler's Notes: The repealed section pertained to system for review of criminal histories of individuals purchasing firearms.
Popular Name: CCW
Popular Name: Concealed Weapons
Popular Name: CPL
Popular Name: Right to Carry
Popular Name: Shall Issue

28.432 Inapplicability of MCL 28.422; amendatory act as "Janet Kukuk act".

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.

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

(d) The National Guard, United States Armed Forces Reserves, or other duly authorized military organization.

(e) A member of an entity or organization described in subdivisions (a) to (d) for a firearm while engaged in the course of that member's 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 that individual's person issued by another state.

(g) The regular and ordinary possession and transportation of a firearm 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 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) may be known as the "Janet Kukuk act".

History: 1927, Act 372, Eff. Sept. 5, 1927 ;-- CL 1929, 16761 ;-- CL 1948, 28.432 ;-- Am. 1964, Act 216, Eff. Aug. 28, 1964 ;-- Am. 2000, Act 381, Eff. July 1, 2001 ;-- Am. 2004, Act 99, Imd. Eff. May 13, 2004 ;-- Am. 2006, Act 75, Eff. July 1, 2006 ;-- Am. 2008, Act 195, Eff. Jan. 7, 2009 ;-- Am. 2010, Act 209, Eff. Feb. 15, 2011 ;-- Am. 2023, Act 19, Eff. Feb. 13, 2024
Popular Name: CCW
Popular Name: Concealed Weapons
Popular Name: CPL
Popular Name: Right to Carry
Popular Name: Shall Issue

28.432a Exceptions.

Sec. 12a.

The requirements of this act for obtaining a license to carry a concealed pistol do not apply to any of the following:

(a) A peace officer of a duly authorized police agency of the United States or of this state or a political subdivision of this state, who is regularly employed and paid by the United States or this state or a subdivision of this state, except a township constable.

(b) A constable who is trained and licensed or certified under the Michigan commission on law enforcement standards act, 1965 PA 203, MCL 28.601 to 28.615, while engaged in his or her official duties or going to or

coming from his or her official duties, and who is regularly employed and paid by a political subdivision of this state.

(c) An individual regularly employed by the department of corrections and authorized in writing by the director of the department of corrections to carry a concealed pistol during the performance of his or her duties or while going to or returning from his or her duties.

(d) An individual regularly employed as a local corrections officer by a county sheriff, who is trained in the use of force and is authorized in writing by the county sheriff to carry a concealed pistol during the performance of his or her duties.

(e) An individual regularly employed in a city jail or lockup who has custody of individuals detained or incarcerated in the jail or lockup, is trained in the use of force, and is authorized in writing by the chief of police or the county sheriff to carry a concealed pistol during the performance of his or her duties.

(f) A member of the United States Army, Air Force, Navy, or Marine Corps while carrying a concealed pistol in the line of duty.

(g) A member of the National Guard, armed forces reserves, or other duly authorized military organization while on duty or drill or while going to or returning from his or her place of assembly or practice or while carrying a concealed pistol for purposes of that military organization.

(h) A resident of another state who is licensed by that state to carry a concealed pistol.

(i) The regular and ordinary transportation of a pistol as merchandise by an authorized agent of a person licensed to manufacture firearms.

(j) An individual while carrying a pistol unloaded in a wrapper or container in the trunk of his or her vehicle or, if the vehicle does not have a trunk, from transporting that pistol unloaded in a locked compartment or container that is separated from the ammunition for that pistol from the place of purchase to his or her home or place of business or to a place of repair or back to his or her home or place of business, or in moving goods from 1 place of abode or business to another place of abode or business.

(k) A peace officer or law enforcement officer from Canada.

History: Add. 1964, Act 216, Eff. Aug. 28, 1964 ;-- Am. 1976, Act 102, Imd. Eff. Apr. 27, 1976 ;-- Am. 1978, Act 282, Imd. Eff. July 6, 1978 ;-- Am. 1978, Act 519, Imd. Eff. Dec. 19, 1978 ;-- Am. 2000, Act 381, Eff. July 1, 2001 ;-- Am. 2002, Act 719, Eff. July 1, 2003 ;-- Am. 2006, Act 559, Imd. Eff. Dec. 29, 2006 ;-- Am. 2015, Act 207, Eff. Dec. 1, 2015 ;-- Am. 2016, Act 301, Eff. Jan. 2, 2017
Popular Name: CCW
Popular Name: Concealed Weapons
Popular Name: CPL
Popular Name: Right to Carry
Popular Name: Shall Issue

28.432b Signaling devices to which MCL 28.422 inapplicable.

Sec. 12b.

Section 2 does not apply to a signaling device that is approved by the United States coast guard pursuant to regulations issued under 46 USC 481, or under 46 USC 1454.

History: Add. 1982, Act 182, Eff. July 1, 1982 ;-- Am. 2008, Act 195, Eff. Jan. 7, 2009
Popular Name: CCW
Popular Name: Concealed Weapons
Popular Name: CPL
Popular Name: Right to Carry
Popular Name: Shall Issue

28.432c Repealed. 2000, Act 381, Eff. July 1, 2001.

Compiler's Notes: The repealed section pertained to license renewal.
Popular Name: CCW
Popular Name: Concealed Weapons
Popular Name: CPL

Popular Name: Right to Carry
Popular Name: Shall Issue

28.433 Unlawful possession of weapon; complaint, search warrant, seizure.

Sec. 13.

When complaint shall be made on oath to any magistrate authorized to issue warrants in criminal cases that any pistol or other weapon or device mentioned in this act is unlawfully possessed or carried by any person, such magistrate shall, if he be satisfied that there is reasonable cause to believe the matters in said complaint be true, issue his warrant directed to any peace officer, commanding him to search the person or place described in such complaint, and if such pistol, weapon or device be there found, to seize and hold the same as evidence of a violation of this act.

History: 1927, Act 372, Eff. Sept. 5, 1927 ;-- CL 1929, 16762 ;-- CL 1948, 28.433
Popular Name: CCW
Popular Name: Concealed Weapons
Popular Name: CPL
Popular Name: Right to Carry
Popular Name: Shall Issue

28.434 Unlawful possession; weapon forfeited to state; disposal; immunity.

Sec. 14.

(1) Subject to sections 5g and 14a, all pistols, weapons, or devices carried or possessed contrary to this act are declared forfeited to this state, and must be turned over to the director of the department of state police or the director's designated representative, for disposal under this section.

(2) The director of the department of state police shall dispose of firearms under this section by destroying them. The director shall ensure that all parts of a firearm disposed of under this section are destroyed.

(3) Before disposing of a firearm under this section, the director of the department of state police shall do both of the following:

(a) Determine through the law enforcement information network whether the firearm has been reported lost or stolen. If the firearm has been reported lost or stolen and the name and address of the owner can be determined, the director of the department of state police shall provide 30 days' written notice of the director's intent to dispose of the firearm under this section to the owner, and allow the owner to claim the firearm within that 30-day period if the owner is authorized to possess the firearm.

(b) Provide 30 days' notice to the public on the department of state police website of the director's intent to dispose of the firearm under this section. The notice must include a description of the firearm and state the firearm's serial number, if the serial number can be determined. The department of state police shall allow the owner of the firearm to claim the firearm within that 30-day period if the owner is authorized to possess the firearm. The 30-day period required under this subdivision is in addition to the 30-day period required under subdivision (a).

(4) The department of state police is immune from civil liability for disposing of a firearm in compliance with this section.

History: 1927, Act 372, Eff. Sept. 5, 1927 ;-- CL 1929, 16763 ;-- Am. 1943, Act 113, Eff. July 30, 1943 ;-- CL 1948, 28.434 ;-- Am. 2000, Act 381, Eff. July 1, 2001 ;-- Am. 2010, Act 295, Imd. Eff. Dec. 16, 2010 ;-- Am. 2024, Act 266, Eff. Apr. 2, 2025
Popular Name: CCW
Popular Name: Concealed Weapons
Popular Name: CPL
Popular Name: Right to Carry
Popular Name: Shall Issue

28.434a Disposition of firearm; immunity from civil liability; "law enforcement agency" defined.

Sec. 14a.

(1) A law enforcement agency that seizes or otherwise comes into possession of a firearm or a part of a firearm subject to disposal under section 14 may, instead of forwarding the firearm or part of a firearm to the director of the department of state police or the director's designated representative for disposal under that section, retain that firearm or part of a firearm for the following purposes:

(a) For legal sale or trade to a federally licensed firearm dealer. The law enforcement agency shall only use the proceeds from any sale or trade under this subdivision for law enforcement purposes. The law enforcement agency shall not sell or trade a firearm or part of a firearm under this subdivision to any individual who is a member of that law enforcement agency unless the individual is a federally licensed firearms dealer and the sale is made pursuant to a public auction.

(b) For official use by members of the seizing law enforcement agency who are employed as peace officers. The law enforcement agency shall not sell a firearm or part of a firearm under this subdivision.

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

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

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

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

(b) Provide 30 days' notice to the public on a website maintained by the law enforcement agency of its intent to dispose of the firearm under this section. The notice must include a description of the firearm and state the firearm's serial number, if the serial number can be determined. The law enforcement agency shall allow the owner of the firearm to claim the firearm in that 30-day period if the owner is authorized to possess the firearm. The 30-day period required under this subdivision is in addition to the 30-day period required under subdivision (a).

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

(6) As used in this section, "law enforcement agency" means any agency that employs peace officers.

History: Add. 2010, Act 295, Imd. Eff. Dec. 16, 2010 ;-- Am. 2023, Act 19, Eff. Feb. 13, 2024
Popular Name: CCW
Popular Name: Concealed Weapons
Popular Name: CPL
Constitutionality: Right to Carry
Compiler's Notes: Shall Issue

28.435 Sale of firearms by federally licensed firearms dealer; sale of trigger lock or secured container; exceptions; brochure, warning, and literature; statement of compliance; notice of liability; action by political subdivision against firearm or ammunition producer prohibited; rights of state attorney general; exceptions; effect of subsections (9) through (11); violation; penalties; definitions.

Sec. 15.

(1) Except as provided in subsection (2), a federally licensed firearms dealer shall not sell a firearm in this state unless the sale includes 1 of the following:

(a) A commercially available trigger lock or other device designed to disable the firearm and prevent the discharge of the firearm.

(b) A commercially available gun case or storage container that can be secured to prevent unauthorized access to the firearm.

(2) This section does not apply to any of the following:

(a) The sale of a firearm to a police officer or a police agency.

(b) The sale of a firearm to a person that presents to the federally licensed firearms dealer 1 of the following:

(i) A trigger lock or other device designed to disable the firearm and prevent the discharge of the firearm together with a copy of the purchase receipt for the federally licensed firearms dealer to keep. A separate trigger lock or device and a separate purchase receipt is required for each firearm purchased.

(ii) A gun case or storage container that can be secured to prevent unauthorized access to the firearm together with a copy of the purchase receipt for the federally licensed firearms dealer to keep. A separate gun case or storage container and a separate purchase receipt is required for each firearm purchased.

(c) The sale of 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.

(d) The sale or transfer of a firearm if the seller is not a federally licensed firearms dealer.

(3) A federally licensed firearms dealer shall not sell a firearm in this state unless the firearm is accompanied with, free of charge, all of the following:

(a) A brochure or pamphlet that includes safety information on the use and storage of the firearm in a home environment.

(b) A written warning informing the purchaser of the penalties for failing to store or leave a firearm in the manner required under section 9.

(c) Lethal means counseling literature published by the department of health and human services under section 9.

(4) Upon the sale of a firearm, a federally licensed firearms dealer shall sign a statement and require the purchaser to sign a statement stating that the sale is in compliance with subsections (1), (2), and (3).

(5) A federally licensed firearms dealer shall retain a copy of the signed statements prescribed in subsection (4) and, if applicable, a copy of the receipt prescribed in subsection (2)(b), for at least 6 years.

(6) A federally licensed firearms dealer in this state shall post in a conspicuous manner at the entrances, exits, and all points of sale on the premises where firearms are sold a notice informing the reader that failing to store or leave a firearm in the manner required under section 9 is unlawful.

(7) A federally licensed firearms dealer is not liable for damages arising from the use or misuse of a firearm if the sale complies with this section, any other applicable law of this state, and applicable federal law.

(8) This section does not create a civil action or liability for damages arising from the use or misuse of a firearm or ammunition for a person, other than a federally licensed firearms dealer, who produces a firearm or ammunition.

(9) Subject to subsections (10) to (12), a political subdivision shall not bring a civil action against any person who produces a firearm or ammunition. The authority to bring a civil action under this section is reserved exclusively to the state and can be brought only by the attorney general. The court shall award costs and reasonable attorney fees to each defendant named in a civil action filed in violation of this subsection.

(10) Subject to subsection (11), subsection (9) does not prohibit a civil action by a political subdivision based on 1 or more of the following, which the court shall narrowly construe:

(a) A breach of contract, other contract issue, or an action based on a provision of the uniform commercial code, 1962 PA 174, MCL 440.1101 to 440.9994, in which the political subdivision is the purchaser and owner of the firearm or ammunition.

(b) Expressed or implied warranties arising from the purchase of a firearm or ammunition by the political subdivision or the use of a firearm or ammunition by an employee or agent of the political subdivision.

(c) A product liability, personal injury, or wrongful death action when an employee or agent or property of the political subdivision has been injured or damaged as a result of a defect in the design or manufacture of the firearm or ammunition purchased and owned by the political subdivision.

(11) Subsection (10) does not allow an action based on any of the following:

(a) A firearm's or ammunition's inherent potential to cause injury, damage, or death.

(b) Failure to warn the purchaser, transferee, or user of the firearm's or ammunition's inherent potential to cause injury, damage, or death.

(c) Failure to sell with or incorporate into the product a device or mechanism to prevent a firearm or ammunition from being discharged by an unauthorized person unless specifically provided for by contract.

(12) Subsections (9) to (11) do not create a civil action.

(13) Subsections (9) to (11) are intended only to clarify the current status of the law in this state, are remedial in nature, and, therefore, apply to a civil action pending on the effective date of this act.

(14) A person who violates this section is guilty of a crime as follows:

(a) Except as provided in subdivision (b) or (c), the person is guilty of a misdemeanor punishable by imprisonment for not more than 93 days or a fine of not more than $500.00, or both.

(b) For a second conviction, the person is guilty of a misdemeanor punishable by imprisonment for not more than

1 year or a fine of not more than $1,000.00, or both.

(c) For a third or subsequent conviction, the person is guilty of a felony punishable by imprisonment for not more than 2 years or a fine of not more than $5,000.00, or both.

(15) As used in this section:

(a) "Federally licensed firearms dealer" means a person licensed under 18 USC 923.

(b) "Firearm or ammunition" includes a component of a firearm or ammunition.

(c) "Person" means an individual, partnership, corporation, association, or other legal entity.

(d) "Political subdivision" means a county, city, village, township, charter township, school district, community college, or public university or college.

(e) "Produce" means to manufacture, construct, design, formulate, develop standards for, prepare, process, assemble, inspect, test, list, certify, give a warning or instructions regarding, market, sell, advertise, package, label, distribute, or transfer.

History: Add. 2000, Act 265, Imd. Eff. June 29, 2000 ;-- Am. 2023, Act 17, Eff. Feb. 13, 2024
Popular Name: CCW
Popular Name: Concealed Weapons
Popular Name: CPL
Popular Name: Right to Carry
Popular Name: Shall Issue

MICHIGAN FIREWORKS SAFETY ACT

Act 256 of 2011

AN ACT to revise, consolidate, and codify the laws relating to certain fireworks; to regulate the purchase, possession, sale, and use of certain fireworks; to establish a fireworks safety fund; to establish a fireworks safety fee; to provide for the transfer and expenditure of funds; to prescribe the powers and duties of certain state agencies; to provide for penalties and remedies; and to repeal acts and parts of acts.

History: 2011, Act 256, Eff. Jan. 1, 2012

The People of the State of Michigan enact:

28.451 Short title.

Sec. 1.

This act shall be known and may be cited as the "Michigan fireworks safety act".

History: 2011, Act 256, Eff. Jan. 1, 2012

28.452 Definitions.

Sec. 2.

As used in this act:

(a) "Agricultural and wildlife fireworks" means fireworks devices distributed to farmers, ranchers, and growers through a wildlife management program administered by the United States Department of the Interior or the department of natural resources of this state.

(b) "APA Standard 87-1" means the "APA Standard 87-1, Standard for Construction and Approval for

Transportation of Fireworks, Novelties, and Theatrical Pyrotechnics", 2001 edition, published by the American Pyrotechnics Association of Bethesda, Maryland.

(c) "Articles pyrotechnic" means pyrotechnic devices for professional use that are similar to consumer fireworks in chemical composition and construction but not intended for consumer use, that meet the weight limits for consumer fireworks but are not labeled as such, and that are classified as UN0431 or UN0432 under 49 CFR 172.101.

(d) "Citation" means that term as described in section 17a.

(e) "Commercial manufacturer" means a person engaged in the manufacture of consumer fireworks.

(f) "Consumer fireworks" means fireworks devices that are designed to produce visible effects by combustion, that are required to comply with the construction, chemical composition, and labeling regulations promulgated by the United States Consumer Product Safety Commission under 16 CFR parts 1500 and 1507, and that are listed in APA Standard 87-1, 3.1.2, 3.1.3, or 3.5. Consumer fireworks does not include low-impact fireworks.

(g) "Consumer fireworks certificate" means a certificate issued under section 4.

(h) "Department" means the department of licensing and regulatory affairs.

(i) "Display fireworks" means large fireworks devices that are explosive materials intended for use in fireworks displays and designed to produce visible or audible effects by combustion, deflagration, or detonation, as provided in 27 CFR 555.11, 49 CFR 172, and APA Standard 87-1, 4.1.

(j) "Firework" or "fireworks" means any composition or device, except for a starting pistol, a flare gun, or a flare, designed for the purpose of producing a visible or audible effect by combustion, deflagration, or detonation. Fireworks consist of consumer fireworks, low-impact fireworks, articles pyrotechnic, display fireworks, homemade fireworks, and special effects.

(k) "Fireworks safety fund" means the fireworks safety fund created in section 11.

(l) "Homemade fireworks" means any composition or device designed for the purpose of producing a visible or audible effect by combustion, deflagration, or detonation that is not produced by a commercial manufacturer and does not comply with the construction, chemical composition, and labeling regulations of the United States Consumer Product Safety Commission under 16 CFR parts 1500 and 1507.

(m) "Local unit of government" means a city, village, or township.

(n) "Low-impact fireworks" means ground and handheld sparkling devices as that phrase is defined under APA Standard 87-1, 3.1, 3.1.1.1 to 3.1.1.8, and 3.5.

(o) "Minor" means an individual who is less than 18 years of age.

(p) "NFPA" means the National Fire Protection Association headquartered at 1 Batterymarch Park, Quincy, Massachusetts.

(q) "NFPA 1" means the "Uniform Fire Code", 2006 edition, developed by NFPA.

(r) "NFPA 72" means the "National Fire Alarm Code", 2002 edition, developed by NFPA.

(s) "NFPA 101" means the "Life Safety Code", 2009 edition, developed by NFPA.

(t) "NFPA 1123" means the "Code for Fireworks Display", 2010 edition, developed by NFPA.

(u) "NFPA 1124" means the "Code for the Manufacture, Transportation, Storage, and Retail Sales of Fireworks and Pyrotechnic Articles", 2006 edition, developed by NFPA.

(v) "NFPA 1126" means the "Standard for the Use of Pyrotechnics Before a Proximate Audience", 2011 edition, developed by NFPA.

(w) "Novelties" means that term as defined under APA Standard 87-1, 3.2, 3.2.1, 3.2.2, 3.2.3, 3.2.4, and 3.2.5 and all of the following:

(i) Toy plastic or paper caps for toy pistols in sheets, strips, rolls, or individual caps containing not more than .25 of a grain of explosive content per cap, in packages labeled to indicate the maximum explosive content per cap.

(ii) Toy pistols, toy cannons, toy canes, toy trick noisemakers, and toy guns in which toy caps as described in subparagraph (i) are used, that are constructed so that the hand cannot come in contact with the cap when in place for the explosion, and that are not designed to break apart or be separated so as to form a missile by the explosion.

(iii) Flitter sparklers in paper tubes not exceeding 1/8 inch in diameter.

(iv) Toy snakes not containing mercury, if packed in cardboard boxes with not more than 12 pieces per box for retail sale and if the manufacturer's name and the quantity contained in each box are printed on the box, and toy smoke devices.

(x) "Permanent building or structure" is a building or structure that is affixed to a foundation on a site that has fixed utility connections and that is intended to remain on the site for more than 180 consecutive calendar days.

(y) "Person" means an individual, agent, association, charitable organization, company, limited liability company, corporation, labor organization, legal representative, partnership, unincorporated organization, or any other legal or commercial entity.

(z) "Retailer" means a person that sells consumer fireworks or low-impact fireworks for resale to an individual for ultimate use.

(aa) "Retail location" means a facility listed under NFPA 1124, 7.1.2.

(bb) "Rule" means a rule, as that term is defined in section 7 of the administrative procedures act of 1969, 1969 PA 306, MCL 24.207, promulgated by the department.

(cc) "Serious impairment of a body function" means that term as defined in section 58c of the Michigan vehicle code, 1949 PA 300, MCL 257.58c.

(dd) "Serious violation" means a violation of this act, an order issued under this act, or a rule promulgated or adopted by reference under this act for which a substantial probability exists that death or serious impairment of a body function to an individual other than the violator may result unless the violator did not and could not, with the exercise of reasonable diligence, know of the presence of the violation.

(ee) "Special effects" means a combination of chemical elements or chemical compounds capable of burning independently of the oxygen of the atmosphere and designed and intended to produce an audible, visual, mechanical, or thermal effect as an integral part of a motion picture, radio, television, theatrical, or opera production or live entertainment.

(ff) "State fire marshal" means the state fire marshal appointed under section 1b of the fire prevention code, 1941 PA 207, MCL 29.1b.

(gg) "Warehouse" means a permanent building or structure used primarily for the storage of consumer fireworks or low-impact fireworks.

(hh) "Wholesaler" means a person that sells consumer fireworks or low-impact fireworks to a retailer or any other person for resale. Wholesaler does not include a person that sells only display fireworks or special effects.

History: 2011, Act 256, Eff. Jan. 1, 2012 ;-- Am. 2012, Act 257, Imd. Eff. July 2, 2012 ;-- Am. 2018, Act 634, Imd. Eff. Dec. 28, 2018

28.453 Novelties; inapplicability of act.

Sec. 3.

This act does not apply to novelties. Nothing in this act allows a local unit of government to enact or enforce an ordinance, code, or regulation pertaining to, or in any manner regulating, the sale, storage, display for sale, transportation, use, or distribution of novelties.

History: 2011, Act 256, Eff. Jan. 1, 2012

28.454 Sale of consumer fireworks; certificate required; violation as civil fine; penalty; application; requirements; issuance; validity; issuance of original or renewal certificate; sales tax license information; denial; transfer; display; prohibition; location or address; disposition of fees.

Sec. 4.

(1) A person shall not sell consumer fireworks unless the person annually obtains and maintains a consumer fireworks certificate from the department under this section.

(2) A person that fails or neglects to comply with subsection (1) is responsible for a civil fine as follows:

(a) For a first violation, not more than $5,000.00. The department shall determine the amount of the fine imposed under this subdivision by applying a scale, as developed by the department, that reflects the severity of the violation.

(b) For a second violation, not more than $20,000.00.

(c) For a third or subsequent violation, not more than $40,000.00.

(3) An applicant for a consumer fireworks certificate shall do all of the following:

(a) Submit an application no later than April 1 of each year in which the applicant will sell consumer fireworks.

(b) Include on the application the name and address of each retail location from which the applicant will sell consumer fireworks.

(c) Submit with the application all of the following, as applicable:

(i) A nonrefundable consumer fireworks certificate fee of $1,250.00 for each retail location that is a permanent building or structure or $1,000.00 for each retail location that is not a permanent building or structure. If the application includes 10 or more retail locations that are not permanent buildings or structures, the fee described in this subdivision shall be $700.00 for each of those locations.

(ii) For an applicant who applies for a consumer fireworks certificate for a retail location that is not a permanent

building or structure and who does not hold a consumer fireworks certificate for a permanent building or structure, a bond in the amount of $5,000.00 to secure the collection of estimated sales tax and fireworks safety fees.

(iii) A copy of the applicant's current sales tax license, including the applicant's account number, issued by the department of treasury for each retail location where the applicant will sell consumer fireworks.

(iv) Any other document required by the department.

(4) The department shall not issue an initial consumer fireworks certificate to an applicant until the department of treasury has confirmed to the department that each sales tax license submitted by the applicant is current and valid, and that the applicant is otherwise eligible to obtain a consumer fireworks certificate under this act.

(5) A consumer fireworks certificate issued under this section is valid from the date of issue until April 30 of the year following the year in which it is issued. A person may renew a consumer fireworks certificate for a retail location by making application on a form prescribed by the department certifying that all information on file with the department is true and correct, that the person's sales tax license for the retail location is current and valid, and that the person has properly remitted all required fireworks safety fees for the preceding year. The department may deny the renewal of a consumer fireworks certificate if the department determines that the applicant did not properly remit all of the required fireworks safety fees For all preceding years, or sales tax for any of the preceding 5 years, during which the applicant held a consumer fireworks certificate. The department shall provide to the department of treasury the sales tax license information received from the applicant and any additional information as may be necessary to allow the department of treasury to confirm that each sales tax license submitted by the applicant is current and valid. The department shall enter into an agreement with the department of treasury under section 28(1) of 1941 PA 122, MCL 205.28, that will allow the department of treasury to provide that information to the department.

(6) Not more than 30 days after an application and all required supporting documentation and fees are submitted to the department under this section, the department shall issue a consumer fireworks certificate to the applicant or deny the application. If the department denies the application, the department shall indicate to the applicant the reason for denial.

(7) If the department denies an application for a consumer fireworks certificate under this section, the applicant may cure any defect in the application within 45 days after the denial without paying an additional fee. The department shall not unreasonably delay or deny an application.

(8) A consumer fireworks certificate is transferable upon approval by the department and the payment of a $250.00 transfer fee. The department shall approve the transfer of a consumer fireworks certificate unless the transferee does not satisfy the eligibility requirements for an original consumer fireworks certificate under this act. The department shall not process a request for a transfer of location between June 1 and July 31.

(9) The holder of a consumer fireworks certificate shall prominently display the original certificate or a copy of the certificate in the each retail location to which the certificate applies. A person that violates this subsection is responsible for a civil fine of $200.00.

(10) The department shall not issue a consumer fireworks certificate to either of the following:

(a) A person that is ineligible under this act.

(b) A person that has an outstanding fine issued under this act not currently under appeal.

(11) The face of the consumer fireworks certificate must indicate the location or address for which it was issued.

(12) Fees collected under this section shall be deposited in the fireworks safety fund.

History: 2011, Act 256, Eff. Jan. 1, 2012 ;-- Am. 2012, Act 257, Imd. Eff. July 2, 2012 ;-- Am. 2013, Act 65, Imd. Eff. June 19, 2013 ;-- Am. 2018, Act 634, Imd. Eff. Dec. 28, 2018

Compiler's Notes: In subsection (9), the words “certificate in the each retail location” evidently should read “certificate in each retail location.”

28.455 Sale of consumer fireworks from retail location; conditions; automatic sprinkler system; failure to comply; civil fine; insurance coverage; notice of dates and times of permissible use; form and content; conditions for sale over phone or internet.

Sec. 5.

(1) A person shall not sell consumer fireworks from a retail location unless all of the following conditions are met:

(a) Except as provided in subdivision (b), the retail location and any adjacent or directly associated retail storage satisfies the applicable requirements of NFPA 101 and NFPA 1124 for consumer and low-impact fireworks that are not in conflict with this act and the Stille-DeRossett-Hale single state construction code act, 1972 PA 230, MCL 125.1501 to 125.1531. Any provision of the Stille-DeRossett-Hale single state construction code act, 1972 PA

230, MCL 125.1501 to 125.1531, that is inconsistent with the applicable requirements of NFPA 101 and NFPA 1124 is superseded to the extent of the inconsistency or conflict.

(b) If the retail location is a permanent building or structure, the building or structure is equipped with a fire suppression system in compliance with NFPA 1124. Beginning on the effective date of the 2018 act that added this sentence and notwithstanding the NFPA 1124 requirements regarding automatic sprinkler systems, if the retail location is in a permanent multitenant building or structure, the building or structure must be equipped with an automatic sprinkler system. The requirement for an automatic sprinkler system described in this subdivision does not apply to the retail location of a person that held a consumer fireworks certificate for a retail location of the same address in a permanent building or structure during the calendar year before the effective date of the 2018 act that added this sentence.

(c) The retailer at that retail location is licensed under section 3 of the general sales tax act, 1933 PA 167, MCL 205.53.

(d) The retailer has a valid federal taxpayer identification number. This requirement does not apply to a retailer that is a sole proprietorship.

(2) A person that fails or neglects to comply with subsection (1) is responsible for a civil fine of not more than $2,500.00 for each violation. The department shall determine the amount of the fine imposed under this subsection by applying a scale, as developed by the department, that reflects the severity of the violation. Each day that a person is in noncompliance is a separate violation.

(3) During any period of time in which a person is selling consumer fireworks, the person shall add as an additional insured, or obtain and maintain public liability and product liability insurance coverage for, each retail location at which the person is selling consumer fireworks, in an amount not less than $10,000,000.00 per occurrence. If the department determines that a person has failed or neglected to comply with this subsection, the department shall order the person to immediately cease operations and pay a civil fine of not more than $5,000.00.

(4) A retailer shall provide with every purchase of consumer fireworks a notice listing the dates and times permitted under this act for the ignition, discharge, and use of consumer fireworks. The notice shall begin with the following statement: "State law permits, under MCL 28.457, the ignition, discharge, and use of consumer fireworks at the following times:". The retailer may provide the notice in a form and manner determined by the retailer, including, but not limited to, printing or stamping the notice on, or affixing the notice to, a receipt, bag, or the product being purchased, or a printed handout provided at the time of purchase. Posting the notice on a wall, window, display, or otherwise, at the retail location, does not satisfy the requirements of this subsection. A retailer who fails to provide the notice required by this subsection is responsible for a civil fine of $100.00 for each day on which 1 or more violations occur. The department shall provide for the remittance of the fine collected under this subsection to the local law enforcement agency responsible for enforcing the notice requirement.

(5) A person shall not engage in the retail sale of consumer fireworks over the telephone, internet, or other like manner unless the consumer fireworks are picked up or shipped from a permanent location for which the person holds a valid consumer fireworks certificate.

History: 2011, Act 256, Eff. Jan. 1, 2012 ;-- Am. 2013, Act 65, Imd. Eff. June 19, 2013 ;-- Am. 2018, Act 634, Imd. Eff. Dec. 28, 2018

28.456 Website; establishment and maintenance by department; registration with low-impact fireworks retail registry; application fee; failure to register; civil fine.

Sec. 6.

(1) The department shall establish and maintain, or cause to be established and maintained, an internet website that has as its purpose the protection of the residents of this state who purchase, use, or transport fireworks. The website must include, but is not limited to, both of the following:

(a) A list of every person that is issued a consumer fireworks certificate under section 4.

(b) A low-impact fireworks retail registry.

(2) A person shall not sell low-impact fireworks unless that person registers with the low-impact fireworks retail registry not less than 10 days before selling the fireworks in each calendar year and pays a $50.00 registry application fee for each retail location registered. For a person with multiple retail locations, the registry application fees in total shall not exceed $1,000.00. A person that holds a valid consumer fireworks certificate issued under section 4 is not required to register with the low-impact fireworks retail registry.

(3) If the department determines that a person that sells low-impact fireworks at retail has failed to register as described in this section, the department shall order the person to immediately cease the sale of low-impact fireworks until the person complies with subsection (2) and pay a civil fine of not more than $1,000.00. For a first

violation of this section, if a person complies with subsection (2) within 30 days of receiving a notice of violation, the department shall waive the civil fine described in this subsection.

History: 2011, Act 256, Eff. Jan. 1, 2012 ;-- Am. 2018, Act 634, Imd. Eff. Dec. 28, 2018

28.457 Local ordinances.

Sec. 7.

(1) Except as provided in this act, a local unit of government shall not enact or enforce an ordinance, code, or regulation pertaining to or in any manner regulating the sale, display, storage, transportation, or distribution of fireworks regulated under this act.

(2) A local unit of government may enact an ordinance regulating the ignition, discharge, and use of consumer fireworks, including, but not limited to, an ordinance prescribing the hours of the day or night during which a person may ignite, discharge, or use consumer fireworks. If a local unit of government enacts an ordinance under this subsection, the ordinance shall not regulate the ignition, discharge, or use of consumer fireworks on the following days after 11 a.m.:

(a) December 31 until 1 a.m. on January 1.

(b) The Saturday and Sunday immediately preceding Memorial Day until 11:45 p.m. on each of those days.

(c) June 29 to July 4 until 11:45 p.m. on each of those days.

(d) July 5, if that date is a Friday or Saturday, until 11:45 p.m.

(e) The Saturday and Sunday immediately preceding Labor Day until 11:45 p.m. on each of those days.

(3) An ordinance under subsection (2) shall impose a civil fine of $1,000.00 for each violation of the ordinance and no other fine or sanction. The ordinance must provide for the remittance of $500.00 of the fine collected under the ordinance to the local law enforcement agency responsible for enforcing the ordinance.

(4) Beginning August 1, 2019, a local unit of government with a population of 100,000 or more or a local unit of government located in a county with a population of 750,000 or more may enact or enforce an ordinance that regulates the use of a temporary structure. An ordinance established under this subsection may include, but is not limited to, a restriction on the number of permits issued for a temporary structure, regulation of the distance required between 2 or more temporary structures, or a zoning ordinance that regulates the use of a temporary structure. An ordinance established under this subsection may not prohibit the temporary storage, transportation, or distribution of fireworks by a consumer fireworks certificate holder at a retail location that is a permanent building or structure. As used in this subsection, "temporary structure" means a movable structure that is used in the sale, display, storage, transportation, or distribution of fireworks, including, but not limited to, a tent or a stand.

History: 2011, Act 256, Eff. Jan. 1, 2012 ;-- Am. 2013, Act 65, Imd. Eff. June 19, 2013 ;-- Am. 2018, Act 635, Imd. Eff. Dec. 28, 2018

28.458 Fireworks safety fee; imposition; payment; deposit in fireworks safety fund; failure to comply; civil fine.

Sec. 8.

(1) A user fee, known as the fireworks safety fee, is imposed on retail transactions made in this state for consumer fireworks and low-impact fireworks as provided in section 9.

(2) A person that acquires consumer fireworks or low-impact fireworks in a retail transaction is liable for the fireworks safety fee on the transaction and, except as otherwise provided in this act, shall pay the fireworks safety fee to the retailer as a separate added amount to the consideration in the transaction. The retailer shall collect the fireworks safety fee as an agent for the state.

(3) The fireworks safety fee shall be deposited in the fireworks safety fund.

(4) A person that fails to collect a fireworks safety fee as required under this section is responsible for a civil fine as follows:

(a) For a first violation, not more than $5,000.00. If the person is a retailer of low-impact fireworks and, within 30 days of receiving a notice of violation, the person remits to the department the estimated equivalent of the

amount the person should have collected under this section, the department shall waive the civil fine described in this subdivision.

(b) For a second violation, not more than $20,000.00.

(c) For a third or subsequent violation, not more than $40,000.00.

History: 2011, Act 256, Eff. Jan. 1, 2012 ;-- Am. 2012, Act 257, Imd. Eff. July 2, 2012 ;-- Am. 2018, Act 634, Imd. Eff. Dec. 28, 2018

28.459 Fireworks safety fee; determination; rates; collection allowance.

Sec. 9.

(1) Except as provided in subsections (2) and (3), the fireworks safety fee is determined by the gross retail income from consumer fireworks and low-impact fireworks received by a retail merchant in a retail unitary transaction of consumer fireworks and low-impact fireworks and is imposed before any taxes are applied at the following rates:

FIREWORKS SAFETY FEE	GROSS RETAIL INCOME FROM THE RETAIL UNITARY TRANSACTION		
$	0		less than $ 0.08
$ 0.01	at least $ 0.08	but less than	$ 0.24
$ 0.02	at least $ 0.24	but less than	$ 0.40
$ 0.03	at least $ 0.40	but less than	$ 0.56
$ 0.04	at least $ 0.56	but less than	$ 0.72
$ 0.05	at least $ 0.72	but less than	$ 0.88
$ 0.06	at least $ 0.88	but less than	$ 1.04

(2) On a retail unitary transaction in which the gross retail income received by the retail merchant is $1.04 or more, the fireworks safety fee is 6% of that gross retail income as determined before any taxes are applied.

(3) If the fireworks safety fee calculated under subsection (1) results in a fraction of 1/2 cent or more, the amount of the fireworks safety fee shall be rounded to the next additional cent.

(4) The retailer whose retail location is a permanent building or structure may retain 1% of the fireworks safety fees that the retailer collected under this section as a collection allowance.

History: 2011, Act 256, Eff. Jan. 1, 2012

28.460 Fireworks safety fees; remittance; forms; manner; payment liability; past due amounts; aggregate filing; failure to remit; civil fine.

Sec. 10.

(1) A person that holds a consumer fireworks certificate or that is a retailer of low-impact fireworks is responsible for remitting all fireworks safety fees, as described in section 9, to the department. The person shall remit the fees collected with a form provided and in a manner prescribed by the department. The person shall hold in trust for the state the fees collected until those fees are remitted to the state. An individual who holds a consumer fireworks certificate or who is a retailer of low-impact fireworks is personally liable for the payment of the fees

collected.

(2) The department may refer for collection to the department of treasury past due amounts of the fireworks safety fee consistent with section 13 of 1941 PA 122, MCL 205.13 or may initiate subrogation for collection within the department.

(3) A person that is responsible for remitting the collected fireworks safety fees under subsection (1) shall remit those fees no later than 20 days after the end of each preceding month. A person that operates 25 or more retail locations in this state that are permanent buildings or structures may remit the collected fees in an aggregate filing under 1 common identification number as determined by the department.

(4) A person that fails to remit the collected fireworks safety fees, as described in subsection (1), is responsible for a civil fine as follows:

(a) For a first violation, not more than $5,000.00. If the person is a retailer of low-impact fireworks and, within 30 days of receiving a notice of violation, the person remits to the department the collected fees that are the subject of the violation, the department shall waive the civil fine described in this subdivision.

(b) For a second violation, not more than $20,000.00.

(c) For a third or subsequent violation, not more than $40,000.00.

History: 2011, Act 256, Eff. Jan. 1, 2012 ;-- Am. 2013, Act 65, Imd. Eff. June 19, 2013 ;-- Am. 2018, Act 634, Imd. Eff. Dec. 28, 2018

28.461 Fireworks safety fund; creation within department of treasury; investment; money remaining in fund; lapse; expenditures; delegation of inspection duties; program.

Sec. 11.

(1) The fireworks safety fund is created within the department of treasury.

(2) The state treasurer may receive money or other assets from any source for deposit into the fund. The state treasurer shall direct the investment of the fund. The state treasurer shall credit to the fund interest and earnings from fund investments.

(3) Money in the fund at the close of the fiscal year shall remain in the fund and shall not lapse to the general fund.

(4) The department shall expend money deposited in the fund as follows:

(a) One hundred percent of the money received from fireworks safety fees under section 8 to be used for the training of firefighters under the direction and approval of the firefighters training council established under the firefighters training council act, 1966 PA 291, MCL 29.361 to 29.377.

(b) One hundred percent of the money received from consumer fireworks certificate fees under section 4 to administer this act and to pay the costs of delegating inspections under this act to local units of government under subsection (5).

(c) One hundred percent of the money received from the fees collected under section 11 of the firefighters training council act, 1966 PA 291, MCL 29.371, to be used for the training of firefighters under the direction and approval of the firefighters training council established under the firefighters training council act, 1966 PA 291, MCL 29.361 to 29.377.

(5) The department may establish a program for delegating inspection duties under this act to 1 or more local units of government. If a local unit of government agrees to carry out inspections, the department shall pay 50% of the consumer fireworks certificate fee paid by each retail location inspected by the local unit of government and retain the remaining 50% of that fee. If a local unit of government declines to participate in the program described in this subsection, the department shall retain its inspection duties under this act.

History: 2011, Act 256, Eff. Jan. 1, 2012 ;-- Am. 2013, Act 65, Imd. Eff. June 19, 2013 ;-- Am. 2017, Act 145, Eff. Jan. 31, 2018 ;-- Am. 2018, Act 634, Imd. Eff. Dec. 28, 2018

28.462 Prohibited conduct; permission required; violation as civil infraction; civil fine; sale to minor; definitions; violation of smoking prohibition; civil fine; signage.

Sec. 12.

(1) A person shall not ignite, discharge, or use consumer fireworks on public property, school property, church property, or the property of another person without that organization's or person's express permission to use those fireworks on those premises. Except as otherwise provided in this section, a person that violates this subsection is responsible for a state civil infraction and may be ordered to pay a civil fine of not more than $500.00.

(2) A person shall not sell consumer fireworks to a minor. A person that violates this subsection shall be ordered to pay a civil fine of not more than $1,000.00, or, for a second or subsequent violation of this subsection, a civil fine of not more than $2,500.00. For a second or subsequent violation, the department shall suspend the person's consumer fireworks certificate for 90 days beginning on the date a civil fine is ordered. The age of an individual purchasing consumer fireworks shall be verified by any of the following:

(a) An operator's or chauffeur's license issued under the Michigan vehicle code, 1949 PA 300, MCL 257.1 to 257.923.

(b) An official state personal identification card issued under 1972 PA 222, MCL 28.291 to 28.300.

(c) An enhanced driver license or enhanced official state personal identification card issued under the enhanced driver license and enhanced official state personal identification card act, 2008 PA 23, MCL 28.301 to 28.308.

(d) A military identification card.

(e) A passport.

(f) Any other bona fide photograph identification that establishes the identity and age of the individual.

(3) An individual shall not discharge, ignite, or use consumer fireworks or low-impact fireworks while under the influence of alcoholic liquor, a controlled substance, or a combination of alcoholic liquor and a controlled substance. A person that violates this subsection is responsible for a state civil infraction and may be ordered to pay a civil fine of not more than $1,000.00. As used in this subsection:

(a) "Alcoholic liquor" means that term as defined in section 1d of the Michigan vehicle code, 1949 PA 300, MCL 257.1d.

(b) "Controlled substance" means that term as defined in section 8b of the Michigan vehicle code, 1949 PA 300, MCL 257.8b.

(4) An individual who violates the smoking prohibition described in NFPA 1124, 7.3.11.1, regardless of the type or quantity of consumer or low-impact fireworks present, is responsible for a civil fine of $1,000.00.

(5) Signage stating the smoking prohibition described in subsection (4) satisfies the requirements of NFPA 1124.

(6) A person shall not ignite, discharge, or use consumer fireworks or low-impact fireworks in a manner that is intended to harass, scare, or injure livestock. As used in this subsection, "livestock" means that term as defined in section 3 of the animal industry act, 1988 PA 466, MCL 287.703.

History: 2011, Act 256, Eff. Jan. 1, 2012 ;-- Am. 2012, Act 257, Imd. Eff. July 2, 2012 ;-- Am. 2013, Act 65, Imd. Eff. June 19, 2013 ;-- Am. 2018, Act 634, Imd. Eff. Dec. 28, 2018 ;-- Am. 2019, Act 138, Eff. Feb. 19, 2020

28.463 Repealed. 2018, Act 634, Imd. Eff. Dec. 28, 2018.

Compiler's Notes: The repealed section pertained to requiring a wholesaler to maintain a resident agent.

28.464 Identification of firework in violation of act; investigation; determination of violation; seizure; criminal or civil proceedings.

Sec. 14.

(1) A governmental or law enforcement agency that identifies a firework that is in violation of this act shall secure the firework and immediately notify the department of the alleged violation. The department or law enforcement agency shall investigate the alleged violation for compliance with this act.

(2) If the department or law enforcement agency determines through its investigation under subsection (1) that a violation of this act has occurred, except for a violation of section 6(2), the department or law enforcement agency may seize the firework as evidence of the violation. The department or law enforcement agency shall store, or cause to be stored, the evidence seized under this section pending disposition of any criminal or civil proceedings arising

from the violation. If the person subject to criminal or civil proceedings under this section is found guilty, responsible, or liable for the violation, the person shall be required to pay the storage expense for the evidence seized.

History: 2011, Act 256, Eff. Jan. 1, 2012 ;-- Am. 2018, Act 634, Imd. Eff. Dec. 28, 2018

28.465 Storage of seized fireworks; disposal or destruction; storage and disposal costs; use for training purposes.

Sec. 15.

(1) Fireworks seized for an alleged violation of this act shall be stored in compliance with this act and the rules promulgated under this act.

(2) Following a final disposition of an appeal of a conviction under this act that affirms the conviction, the department may dispose of or destroy any fireworks retained as evidence in that prosecution.

(3) A person from whom fireworks are seized under this act shall pay the actual costs of storage and disposal of the seized fireworks if found guilty, responsible, or liable for a violation under this act.

(4) The department may use fireworks described in subsection (2) for training purposes.

History: 2011, Act 256, Eff. Jan. 1, 2012 ;-- Am. 2018, Act 634, Imd. Eff. Dec. 28, 2018

28.466 Articles pyrotechnic or display fireworks ignition; permit; competency and qualifications of operators; retention of fee.

Sec. 16.

(1) The legislative body of a city, village, or township, upon application in writing on forms provided by the department on the department's website and payment of a fee set by the legislative body, if any, may grant a permit for the use of agricultural or wildlife fireworks, articles pyrotechnic, display fireworks, consumer fireworks, or special effects manufactured for outdoor pest control or agricultural purposes, or for public or private display within the city, village, or township by municipalities, fair associations, amusement parks, or other organizations or individuals approved by the city, village, or township authority, if the applicable provisions of this act are met. After a permit has been granted, a permit holder may sell, possess, or transport fireworks for only the purposes described in the permit. A permit granted under this subsection is not transferable and shall not be issued to a minor.

(2) Before a permit for articles pyrotechnic or a display fireworks ignition is issued, the person applying for the permit shall furnish proof of financial responsibility by a bond or insurance in an amount, character, and form deemed necessary by the local governing authority to protect the public and to satisfy claims for damages to property or personal injuries arising out of an act or omission on the part of the person or an agent or employee of the person.

(3) The department shall not issue under this act a permit to a nonresident person for ignition of articles pyrotechnic or display fireworks in this state until the person has appointed in writing a resident member of the bar of this state or a resident agent to be the legal representative upon whom all process in an action or proceeding against the person may be served.

(4) Before granting a permit under this act, the local governing authority shall rule on the competency and qualifications of an articles pyrotechnic and display fireworks operator, as furnished by the operator on the operator's application form, in accordance with the requirements provided under NFPA 1123, and on the time, place, and safety aspects of the display of articles pyrotechnic or display fireworks.

(5) A local unit of government that charges and collects a fee to issue a permit under this section shall retain the collected fee.

History: 2011, Act 256, Eff. Jan. 1, 2012 ;-- Am. 2018, Act 634, Imd. Eff. Dec. 28, 2018

28.467 Conduct not prohibited by act.

Sec. 17.

Except as otherwise provided in this act, this act does not prohibit any of the following:

(a) A wholesaler, retailer, commercial manufacturer, or importer from selling, storing, using, transporting, or distributing consumer fireworks or low-impact fireworks.

(b) The use of fireworks by railroads or other transportation agencies or law enforcement agencies for signal purposes or illumination.

(c) The use of agricultural or wildlife fireworks.

(d) The sale or use of blank cartridges for any of the following:

(i) A show or play.

(ii) Signal or ceremonial purposes in athletics or sports.

(iii) Use by military organizations.

(iv) Use by law enforcement agencies.

(e) The possession, sale, or disposal of fireworks incidental to the public display of fireworks by wholesalers or other persons who possess a permit to possess, store, or sell explosives from the bureau of alcohol, tobacco, firearms, and explosives of the United States Department of Justice.

(f) Interstate wholesalers from selling, storing, using, transporting, or distributing fireworks.

(g) A person from parking a motor vehicle, or trailer, that is not being used for the storage of consumer fireworks, within 10 feet of a permanent building or structure used in the retail sale of consumer fireworks.

History: 2011, Act 256, Eff. Jan. 1, 2012 ;-- Am. 2012, Act 257, Imd. Eff. July 2, 2012 ;-- Am. 2018, Act 634, Imd. Eff. Dec. 28, 2018

28.467a Issuance of citation by state fire marshal.

Sec. 17a.

(1) If, as a result of an inspection or investigation, the state fire marshal or the state fire marshal's designee believes that a person has violated this act, an order issued under this act, or a rule promulgated under this act, the state fire marshal or the state fire marshal's designee shall issue a citation not more than 90 days after the completion of the physical inspection or investigation.

(2) The state fire marshal or the state fire marshal's designee shall issue the citation described in subsection (1) to the holder of the consumer fireworks certificate for, or to a person conducting or directing the sale of consumer fireworks without a consumer fireworks certificate at, the retail location that is the subject of the inspection or investigation. A holder of a consumer fireworks certificate, or a person conducting or directing the sale of consumer fireworks without a consumer fireworks certificate, as described in this subsection, is responsible for the acts or omissions of an individual under that person's employ or control.

(3) Except as otherwise provided in this act, upon issuance of a citation, the state fire marshal may immediately suspend the consumer fireworks certificate of the person receiving the citation.

(4) Upon a proper petition, a court of competent jurisdiction may enjoin a violation of this act.

(5) All of the following apply to a citation issued by the state fire marshal or the state fire marshal's designee under this act:

(a) It shall be in writing.

(b) It shall state on its face that it is an allegation of a violation of this act, describe with particularity the nature of the violation, and include a reference to the provision, rule, or order alleged to be violated.

(c) It shall contain all of the following:

(i) The date of the citation.

(ii) The name and title of the individual who issued the citation.

(iii) The name and address of the person receiving the citation.

(iv) The actions necessary to bring the person receiving the citation into compliance, including the payment of a fine.

(v) A space for the signature of the person receiving the citation indicating that the person has received the citation.

(vi) A space where the person receiving the citation may accept the citation and agree to comply or, in the

alternative, indicate the person's intent to contest the citation.

(vii) A notice that the person receiving the citation must accept or reject the terms of the citation in writing within 15 days of the receipt of the citation.

(viii) A brief description of the administrative hearing process and the process for settlement as provided for by rule.

(d) A citation may either be mailed to the person receiving the citation by certified mail, return receipt requested, or delivered in person by the state fire marshal, or the state fire marshal's designee who issued the citation.

History: Add. 2012, Act 257, Imd. Eff. July 2, 2012 ;-- Am. 2018, Act 634, Imd. Eff. Dec. 28, 2018

28.468 Violation of act; penalty; reimbursement of storage costs.

Sec. 18.

(1) Unless otherwise provided in this act, if a person violates this act, the person is guilty of a crime as follows:

(a) Except as otherwise provided in this section, a misdemeanor punishable by imprisonment for not more than 30 days or a fine of not more than $1,000.00, or both.

(b) If the violation causes damage to the property of another person, a misdemeanor punishable by imprisonment for not more than 90 days or a fine of not more than $5,000.00, or both.

(c) If the violation causes serious impairment of a body function of another person, a felony punishable by imprisonment for not more than 5 years or a fine of not more than $5,000.00, or both.

(d) If the violation causes the death of another person, a felony punishable by imprisonment for not more than 15 years or a fine of not more than $10,000.00, or both.

(2) In addition to any other penalty imposed for the violation of this act, a person that is found guilty of a violation of this act shall be required to reimburse the appropriate governmental agency for the costs of storing seized fireworks that the governmental agency confiscated for a violation of this act. This reimbursement shall be in a form and at a time as required by the department and as otherwise required by law.

History: 2011, Act 256, Eff. Jan. 1, 2012 ;-- Am. 2012, Act 257, Imd. Eff. July 2, 2012

28.468a Citation for serious violation; fine; prosecution; payment of civil fines to department; collection proceedings.

Sec. 18a.

(1) Except as otherwise provided in this section, a person that receives a citation for a serious violation, an order issued under this act, or a rule promulgated under this act shall be assessed a civil fine of not more than $1,000.00 for each violation.

(2) Except as otherwise provided in this section, a person that receives a citation for a violation of this act that is not a serious violation may be assessed a civil fine of not more than $500.00 for each violation.

(3) Subsections (1) and (2) do not apply to violations for which a specific civil fine is provided by this act.

(4) The state fire marshal may request that the prosecuting attorney for the county in which a violation of this act occurred issue a complaint and request a warrant for the prosecution of an individual who commits a criminal violation of this act.

(5) A civil fine ordered under this act shall be paid to the department within 15 working days after the date the civil fine is ordered, not subject to further review, and credited to the fireworks safety fund.

(6) The department of treasury shall institute proceedings to collect any civil fines ordered but not paid under this act.

History: Add. 2012, Act 257, Imd. Eff. July 2, 2012 ;-- Am. 2013, Act 65, Imd. Eff. June 19, 2013 ;-- Am. 2018, Act 634, Imd. Eff. Dec. 28, 2018

Compiler's Notes: Act 65 of 2013 did not amend this section and evidently should not have been cited as amended.

28.468b Issuance of certificate prohibited; revocation.

Sec. 18b.

(1) The department shall not issue, and an individual is ineligible to be issued, a consumer fireworks certificate if, as verified by the internet criminal history access tool (ICHAT) maintained by the department of state police, the individual was convicted of a felony involving theft, fraud, or arson.

(2) If due to a criminal conviction an individual will be ineligible for a consumer fireworks certificate on April 30 of the year following the year for which the individual currently holds a consumer fireworks certificate, the department shall revoke the current consumer fireworks certificate for the balance of the current year.

History: Add. 2012, Act 257, Imd. Eff. July 2, 2012 ;-- Am. 2018, Act 634, Imd. Eff. Dec. 28, 2018

28.468c Person ineligible to obtain consumer fireworks certificates; offenses; periods; sanctions.

Sec. 18c.

(1) A person that is found responsible for any of the following is ineligible, beginning on the date of the finding, to obtain a consumer fireworks certificate for the period of time indicated:

(a) A second violation of section 4(1), 5 years.

(b) A third or subsequent violation of section 4(1), 10 years.

(c) A first violation of section 8(4), 1 year.

(d) A second violation of section 8(4), 5 years.

(e) A third or subsequent violation of section 8(4), 10 years.

(f) A violation subject to section 18(1)(b), 1 year.

(g) A violation subject to section 18(1)(c), permanently.

(h) A violation subject to section 18(1)(d), permanently.

(2) A sanction imposed under subsection (1) shall be imposed in addition to any other penalty or sanction imposed for a violation of this act.

History: Add. 2012, Act 257, Imd. Eff. July 2, 2012 ;-- Am. 2018, Act 634, Imd. Eff. Dec. 28, 2018

28.469 Inspections; delegation of authority and responsibility.

Sec. 19.

The department may delegate authority and responsibility to carry out inspections and other duties under this act.

History: 2011, Act 256, Eff. Jan. 1, 2012

28.470 Rules.

Sec. 20.

(1) The department shall promulgate rules under the administrative procedures act of 1969, 1969 PA 306, MCL 24.201 to 24.328, to administer this act, including, but not limited to, all of the following:

(a) Create uniform applications and other forms for dissemination to and use by local units of government under this act.

(b) Procedures for the collection of application fees and fireworks safety fees.

(c) Enforcement of regulatory duties.

(d) The enforcement of age limitations.

(2) Rules promulgated under this section shall conform to the following codes developed by the national fire protection association, except for any code provision that conflicts with this act:

(a) NFPA 1123, code for fireworks display.

(b) NFPA 1124, code for manufacture, transportation, storage, and retail sales of fireworks and pyrotechnic articles.

(c) NFPA 1126, standard for the use of pyrotechnics.

(3) The rules promulgated under former chapter XXXIX of the Michigan penal code, 1931 PA 328, MCL 750.243a to 750.243e, pertaining to the display of articles pyrotechnic and display fireworks that are in effect on the effective date of this act shall remain in effect until rescinded or otherwise changed according to law, as provided for in section 31 of the administrative procedures act of 1969, 1969 PA 306, MCL 24.231.

History: 2011, Act 256, Eff. Jan. 1, 2012

28.471 Repealed. 2018, Act 305, Imd. Eff. June 29, 2018.

Compiler's Notes: The repealed section pertained to a report by the state fire marshal.

HOUSING UNITS

Act 227 of 1947

28.501-28.506 Repealed. 1976, Act 7, Imd. Eff. Feb. 11, 1976.

MICHIGAN RETIRED LAW ENFORCEMENT OFFICER'S FIREARM CARRY ACT

Act 537 of 2008

AN ACT to authorize a process for retired law enforcement officers to carry concealed firearms in this state; to prescribe certain powers and duties of the department of state police, the commission on law enforcement standards, and certain other state officers and agencies; to impose certain civil and criminal penalties; to impose certain requirements on certain persons issued certificates to carry concealed firearms; to provide for certain civil immunity; to allow for the collection of certain fees; to create certain funds; to provide for the forfeiture of firearms under certain circumstances; and to provide for the promulgation of rules.

History: 2008, Act 537, Eff. Mar. 31, 2009

The People of the State of Michigan enact:

28.511 Short title.

Sec. 1.

This act shall be known and may be cited as the "Michigan retired law enforcement officer's firearm carry act".

History: 2008, Act 537, Eff. Mar. 31, 2009

28.512 Definitions.

Sec. 2.

As used in this act:

(a) "Active duty firearms standard" means the in-service standard for the training and qualification of active duty law enforcement officers as mandated by the commission under the commission on law enforcement standards act, 1965 PA 203, MCL 28.601 to 28.616.

(b) "Alcoholic liquor" means that term as defined in section 105 of the Michigan liquor control code of 1998, 1998 PA 58, MCL 436.1105.

(c) "Certification" or "certified" means official recognition by the commission that a retired law enforcement officer has met the active duty firearms standard in this state and is eligible to carry a concealed firearm under 18 USC 926C.

(d) "Certificate" means a commission-issued document that identifies a qualified retired law enforcement officer who is certified under 18 USC 926C and this act.

(e) "Controlled substance" means that term as defined in section 7104 of the public health code, 1978 PA 368, MCL 333.7104.

(f) "Certificate holder" means a qualified retired law enforcement officer who is issued a certificate by the commission.

(g) "Commission" means the commission on law enforcement standards established under section 3 of the commission on law enforcement standards act, 1965 PA 203, MCL 28.603.

(h) "Firearm" means that term as defined in section 1 of 1927 PA 372, MCL 28.421.

(i) "Peace officer" means an officer of a law enforcement agency of the state, the federal government, or a county, township, city, or village who is responsible for the prevention and detection of crime and enforcement of the criminal laws of this state, and includes a motor carrier officer appointed under section 6d of 1935 PA 59, MCL 28.6d, and security personnel employed by the department of state police under section 6c of 1935 PA 59, MCL 28.6c. Peace officer does not include a qualified retired law enforcement officer.

(j) "Qualified retired law enforcement officer" means that term as defined in 18 USC 926C(c).

History: 2008, Act 537, Eff. Mar. 31, 2009

28.513 Certification of qualified retired law enforcement officer to carry concealed firearm; establishment of requirements and procedures by commission; rules.

Sec. 3.

The commission shall establish requirements and procedures through which a qualified retired law enforcement officer may be certified to carry a concealed firearm under 18 USC 926C and this act. The commission shall establish requirements and procedures through which certification under 18 USC 926C and this act may be denied or revoked. The commission may promulgate rules to implement this act in accordance with the administrative procedures act of 1969, 1969 PA 306, MCL 24.201 to 24.328.

History: 2008, Act 537, Eff. Mar. 31, 2009

28.514 Eligibility to carry concealed firearm.

Sec. 4.

(1) In order to be eligible to carry a concealed firearm under 18 USC 926C and this act, a qualified retired law enforcement officer must meet the requirements of 18 USC 926C and be a legal resident of this state.

(2) A retired law enforcement officer is not eligible for certification by the commission under 18 USC 926C and this act if he or she is prohibited under federal law from being certified under 18 USC 926C.

History: 2008, Act 537, Eff. Mar. 31, 2009

28.515 Application requirements and procedures to verify identity; conduct criminal history, and conduct background investigation; establishment by commission.

Sec. 5.

(1) The commission shall establish application requirements and procedures in order to verify the identity of an applicant, to conduct a complete criminal history, and to conduct a background investigation into an applicant's fitness to carry a concealed firearm under 18 USC 926C and this act.

(2) The commission shall request the department of state police to conduct a criminal records check through the state of Michigan and the federal bureau of investigation. The commission shall require the individual to submit his or her fingerprints to the department of state police in a manner prescribed by the department of state police for that purpose. The department of state police may charge a fee for conducting the criminal records check. If a criminal arrest fingerprint card is subsequently submitted to the department of state police and matches against a fingerprint that was submitted under this section and stored in the AFIS database, the department of state police shall notify the commission. Once the department of state police has a set of fingerprints on file as a result of being fingerprinted for purposes of this act, the individual is not required to have fingerprints taken for subsequent renewal applications.

History: 2008, Act 537, Eff. Mar. 31, 2009

28.516 Application form; signature; providing false or misleading information as felony; penalty.

Sec. 6.

(1) The commission shall create an application form for certification under this act. The applicant shall sign the application acknowledging that all information contained in the application is true and accurate.

(2) An applicant who knowingly provides false or misleading information on the application, in whole or in part, is guilty of a felony, punishable by imprisonment for not more than 4 years or a fine of not more than $2,000.00, or both.

History: 2008, Act 537, Eff. Mar. 31, 2009

28.517 Issuance of certificate; carrying certificate and driver license or Michigan personal identification card; disclosure to peace officer; forfeiture upon notice of revocation; violation; penalties.

Sec. 7.

(1) The commission or its agent shall issue a certificate to a qualified retired law enforcement officer who has complied with the active duty firearms standard and is eligible to carry a concealed firearm under 18 USC 926C and this act.

(2) A certificate holder shall carry the certificate and a valid driver license or Michigan personal identification

card on his or her person at all times while in possession of a concealed firearm and shall produce the documents upon demand by a peace officer.

(3) A certificate holder who is carrying a concealed firearm and who is stopped by a peace officer shall immediately disclose to the peace officer that he or she is carrying a concealed firearm on his or her person or is transporting a firearm in his or her vehicle.

(4) Upon notice of revocation, a certificate holder is required to forfeit his or her certificate to the commission by returning the certificate in person to the commission or returning the certificate by certified mail.

(5) A violation of this section subjects the certificate holder to the penalties provided in section 5f of 1927 PA 372, MCL 28.425f, including forfeiture of the firearm.

History: 2008, Act 537, Eff. Mar. 31, 2009

28.518 Circumstances requiring report to commission; failure to file report as misdemeanor; penalty.

Sec. 8.

(1) A certificate holder shall immediately report to the commission in writing the circumstances of any of the following:

(a) An arrest or a conviction for a violation of any state or federal criminal law.

(b) Becoming the subject of an order or disposition in any jurisdiction that does 1 or more of the following:

(i) Restrains the certificate holder from harassing, stalking, or threatening an intimate partner of the person or a child of the intimate partner or person, or engaging in other conduct that would place an intimate partner in reasonable fear of bodily injury to the partner or child.

(ii) Prohibits or limits the transport, possession, carrying, or use of firearms or ammunition.

(iii) Involves an adjudication of mental illness, a finding of insanity, a finding of legal incapacity, or an order for involuntary commitment in an inpatient or outpatient setting.

(c) A laboratory result reflecting the unauthorized presence of controlled substances following a drug test administered to the certificate holder.

(2) A certificate holder who fails to file a written report as required under subsection (1) is guilty of a misdemeanor punishable by imprisonment for not more than 1 year or a fine of not more than $5,000.00, or both.

History: 2008, Act 537, Eff. Mar. 31, 2009

28.519 Implied consent to submit to chemical analysis; certificate holder under influence of alcoholic liquor or controlled substance; violation; penalty; exception; collection and testing of breath, blood, and urine specimens; refusal to take chemical test; report of violation to commission.

Sec. 9.

(1) Acceptance of a certificate issued under this act constitutes implied consent to submit to a chemical analysis under this section.

(2) A certificate holder shall not carry a concealed firearm while he or she is under the influence of alcoholic liquor or a controlled substance or while having a bodily alcohol content prohibited under this section. A person who violates this section is responsible for a state civil infraction or is guilty of a crime as follows:

(a) If the person was under the influence of alcoholic liquor or a controlled substance or a combination of alcoholic liquor and a controlled substance, or had a bodily alcohol content of .10 or more grams per 100 milliliters of blood, per 210 liters of breath, or per 67 milliliters of urine, the individual is guilty of a misdemeanor punishable by imprisonment for not more than 93 days or a fine of not more than $100.00, or both. The court shall order the commission to permanently revoke the certificate. The commission shall permanently revoke the certificate as ordered by the court.

(b) If the person had a bodily alcohol content of .08 or more but less than .10 grams per 100 milliliters of blood, per 210 liters of breath, or per 67 milliliters of urine, the individual is guilty of a misdemeanor punishable by imprisonment for not more than 93 days or a fine of not more than $100.00, or both. The court may order the

commission to revoke the certificate for not more than 3 years. The commission shall revoke the certificate as ordered by the court.

(c) If the person had a bodily alcohol content of .02 or more, but less than .08 grams per 100 milliliters of blood, per 210 liters of breath, or per 67 milliliters of urine, the individual is responsible for a state civil infraction and may be fined not more than $100.00. The court may order the commission to revoke the certificate for 1 year. The commission shall revoke certification if an individual is found responsible for a subsequent violation of this subdivision.

(3) This section does not prohibit an individual certified under this act to carry a concealed firearm who has any bodily alcohol content from transporting that firearm in the locked trunk of his or her motor vehicle or another motor vehicle in which he or she is a passenger or, if the vehicle does not have a trunk, from transporting that firearm unloaded in a locked compartment or container that is separated from the ammunition for that firearm or on a vessel if the firearm is transported unloaded in a locked compartment or container that is separated from the ammunition for that firearm.

(4) A peace officer who has probable cause to believe a certificate holder is carrying a concealed firearm in violation of this section may require the certificate holder to submit to a chemical analysis of his or her breath, blood, or urine.

(5) Before a certificate holder is required to submit to a chemical analysis under subsection (4), the peace officer shall inform the certificate holder of all of the following:

(a) The certificate holder may refuse to submit to the chemical analysis, but if he or she chooses to do so, all of the following apply:

(i) The officer may obtain a court order requiring the certificate holder to submit to a chemical analysis.

(ii) The refusal may result in his or her certificate being revoked.

(b) If the certificate holder submits to the chemical analysis, he or she may obtain a chemical analysis described in subsection (4) from a person of his or her own choosing.

(6) The collection and testing of breath, blood, and urine specimens under this section shall be conducted in the same manner that breath, blood, and urine specimens are collected and tested for alcohol-related and controlled-substance-related motor vehicle operation violations under the Michigan vehicle code, 1949 PA 300, MCL 257.1 to 257.923.

(7) If a certificate holder refuses to take a chemical test authorized under this section, the peace officer shall promptly report the refusal in writing to the commission.

(8) If a certificate holder takes a chemical test authorized under this section and the test results indicate that the individual had any bodily alcohol content while carrying a concealed firearm, the peace officer shall promptly report the violation in writing to the commission.

History: 2008, Act 537, Eff. Mar. 31, 2009

28.520 Computerized database; creation and maintenance by commission; information to be contained; deletion; dissemination; confidentiality.

Sec. 10.

(1) The commission shall create and maintain a computerized database of individuals who apply for a certificate under this act. The database shall contain only the following information as to each individual:

(a) The individual's name, date of birth, address, and county of residence.

(b) If the individual is issued a certificate, the certificate number and date of expiration.

(c) Except as provided in subsection (2), if the individual was denied a certificate, a statement of the reasons for that denial.

(d) A statement of all criminal charges pending and criminal convictions obtained against the individual during the certificate period.

(e) A statement of all determinations of responsibility for civil infractions of this act pending or obtained against the individual during the certificate period.

(2) If an individual who was denied a certificate is subsequently issued a certificate, the commission shall delete from the computerized database the previous reasons for the denial.

(3) The commission shall provide the information described in subsection (1)(a) and (b) to the department of state police in a manner prescribed by the department of state police for dissemination through the law enforcement information network.

(4) Information in the database, compiled under subsections (1) through (3), is confidential, is not subject to

disclosure under the freedom of information act, 1976 PA 442, MCL 15.231 to 15.246, and shall not be disclosed to any person except for purposes of this act or for law enforcement purposes.

History: 2008, Act 537, Eff. Mar. 31, 2009

28.521 Administration of active duty firearm standard; identification of eligible public entities.

Sec. 11.

The commission shall identify public entities eligible to administer the active duty firearm standard to qualified retired law enforcement officers for purposes of carrying out 18 USC 926C and this act.

History: 2008, Act 537, Eff. Mar. 31, 2009

28.522 Firearm subject to seizure and forfeiture.

Sec. 12.

A firearm that is carried in violation of this act is subject to seizure and forfeiture in the same manner that property is subject to seizure and forfeiture under sections 4701 to 4709 of the revised judicature act of 1961, 1961 PA 236, MCL 600.4701 to 600.4709. This section does not apply if the violation is a state civil infraction under section 5f of 1927 PA 372, MCL 28.425f, unless the individual fails to present his or her certificate within the 45-day period described in that section.

History: 2008, Act 537, Eff. Mar. 31, 2009

28.523 Retired law enforcement officer safety fund; creation in state treasury; credit of funds; balance remaining at end of fiscal year; administration for auditing purposes; expenditures.

Sec. 13.

(1) The retired law enforcement officer safety fund is created in the state treasury.
(2) The state treasurer shall credit to the fund deposits from the collection of application fees as provided in section 14. The state treasurer shall direct the investment of the fund. The state treasurer shall credit to the fund interest and earnings from fund investments.
(3) The unencumbered balance remaining in the fund at the end of a fiscal year shall remain in the fund and shall not revert to the general fund.
(4) The department of state police is the administrator of the fund for auditing purposes.
(5) The commission shall expend money from the fund, upon appropriation, only for the purposes of this act.

History: 2008, Act 537, Eff. Mar. 31, 2009

28.524 Fees.

Sec. 14.

The commission may set and collect a fee for actual costs associated with administration under 18 USC 926C and this act by any method of payment accepted by the commission. The fees shall be deposited in the retired law enforcement officer safety fund.

History: 2008, Act 537, Eff. Mar. 31, 2009

28.525 Immunity from liability.

Sec. 15.

The commission or any law enforcement agency, governmental entity, agent, employee, volunteer, designee, or individual who is acting in good faith in discharging his or her responsibilities under this act is immune from civil liability for any damages resulting from the ownership, possession, carrying, use, or discharge of a firearm by any qualified retired law enforcement officer who has been certified under this act or whose certification has been denied. The immunity provided under this section is in addition to any immunity otherwise provided by law.

History: 2008, Act 537, Eff. Mar. 31, 2009

28.526 Preemption.

Sec. 16.

This act does not preempt any existing state or federal statute, regulation, or other authority governing the use, possession, carrying, or receiving of firearms or ammunition in this state, including application by a qualified retired law enforcement officer to carry a concealed firearm under 18 USC 926C.

History: 2008, Act 537, Eff. Mar. 31, 2009

28.527 Expiration of commission's authority to issue certificates.

Sec. 17.

The commission's authority to issue certificates under this act expires immediately upon the repeal of 18 USC 926C.

History: 2008, Act 537, Eff. Mar. 31, 2009

CARRYING AND ADMINISTERING OPIOID ANTAGONISTS

Act 462 of 2014

28.541-28.544 Repealed. 2019, Act 39, Eff. Sept. 24, 2019.

LAW ENFORCEMENT OFFICER SEPARATION OF SERVICE RECORD ACT

Act 128 of 2017

AN ACT to require the creation and maintenance of certain law enforcement officer personnel records; to prescribe the information that may be contained in the personnel records; to permit law enforcement officers to review the personnel records; and to provide for immunity from civil liability to law enforcement agencies in certain circumstances.

History: 2017, Act 128, Eff. Jan. 15, 2018

The People of the State of Michigan enact:

28.561 Short title.

Sec. 1.

This act shall be known and may be cited as the "law enforcement officer separation of service record act".

History: 2017, Act 128, Eff. Jan. 15, 2018

28.562 Definitions.

Sec. 2.

As used in this act:

(a) "Commission" means the Michigan commission on law enforcement standards created in section 3 of the Michigan commission on law enforcement standards act, 1965 PA 203, MCL 28.603.

(b) "Former employing law enforcement agency" means a law enforcement agency in this state that was the employer of, or that issued an oath of office to, a law enforcement officer licensed under the Michigan commission on law enforcement standards act, 1965 PA 203, MCL 28.601 to 28.615, and that was required to maintain an employment history record for that law enforcement officer under the Michigan commission on law enforcement standards act, 1965 PA 203, MCL 28.601 to 28.615.

History: 2017, Act 128, Eff. Jan. 15, 2018

28.563 Separation of service; maintenance of record regarding reasons and circumstances; review by separating law enforcement officer; request for correction or removal of portion of record; submission of written statement by separating law enforcement officer.

Sec. 3.

(1) In addition to the employment history record required to be maintained under the Michigan commission on law enforcement standards act, 1965 PA 203, MCL 28.601 to 28.615, by a law enforcement agency for each officer it employs or for each officer to whom the chief of police of a village, city, or township or county sheriff has administered an oath of office, a law enforcement agency shall maintain a record regarding the reason or reasons for, and circumstances surrounding, a separation of service for each law enforcement officer for whom the law enforcement agency is required to maintain an employment history record under the Michigan commission on law enforcement standards act, 1965 PA 203, MCL 28.601 to 28.615, who subsequently separates from the law enforcement agency or from his or her employment as a law enforcement officer requiring the administration of an

oath of office under section 9c or 9d of the Michigan commission on law enforcement standards act, 1965 PA 203, MCL 28.609c and 28.609d.

(2) The law enforcement agency shall allow a separating law enforcement officer to review a record prepared under subsection (1) upon the request of the separating officer.

(3) If a separating law enforcement officer disagrees with the accuracy of the contents of the record prepared under subsection (1), he or she may request the correction or removal of the portion of the record he or she believes is incorrect. If the law enforcement agency and the separating law enforcement officer cannot reach an agreement on the contents of the record prepared under subsection (1), the separating law enforcement officer may submit a written statement explaining the separating law enforcement officer's position and the basis for his or her disagreement. If a separating law enforcement officer submits a written statement under this subsection, it must be kept with the record required under subsection (1) and provided with the rest of the contents of the record as required under section 5.

History: 2017, Act 128, Eff. Jan. 15, 2018

28.565 Reemployment of law enforcement officer; waiver allowing contact with former employing law enforcement agency; execution of waiver; immunity from civil liability; copy to Michigan commission on law enforcement standards.

Sec. 5.

(1) A law enforcement officer who is licensed or who was previously licensed or certified under the Michigan commission on law enforcement standards act, 1965 PA 203, MCL 28.601 to 28.615, and was previously employed as a law enforcement officer in this state, who separates from his or her employing law enforcement agency or from employment as a law enforcement officer to whom an oath of office has been administered under section 9c or 9d of the Michigan commission on law enforcement standards act, 1965 PA 203, MCL 28.609c and 28.609d, and who subsequently seeks to become reemployed as a law enforcement officer in this state, shall provide to the prospective employing law enforcement agency, upon receiving a conditional offer of employment, a signed waiver. A waiver executed under this subsection must expressly allow the prospective employing law enforcement agency to contact the law enforcement officer's former employing law enforcement agency or agencies and seek a copy of the record regarding the reason or reasons for, and circumstances surrounding, his or her separation of service created by his or her former employing law enforcement agency or agencies under section 3.

(2) A waiver under subsection (1) must be executed on a form provided by the commission to all law enforcement agencies in this state that employ or administer oaths of office to law enforcement officers licensed under the Michigan commission on law enforcement standards act, 1965 PA 203, MCL 28.601 to 28.615. The prospective employing law enforcement agency is responsible for providing the waiver executed under subsection (1) to the former employing law enforcement agency or agencies.

(3) Upon receipt of the waiver executed under subsection (1), a former employing law enforcement agency shall provide, along with other information required or allowed to be provided by law, a copy of the record required under section 3 to the prospective employing law enforcement agency.

(4) A prospective employing law enforcement agency shall not hire a law enforcement officer to whom subsection (1) applies unless the prospective employing law enforcement agency receives the record created under section 3 from the law enforcement officer's former employing law enforcement agency or agencies.

(5) A former employing law enforcement agency that discloses information under this section in good faith after receipt of a waiver executed under subsection (1) is immune from civil liability for the disclosure. A former employing law enforcement agency is presumed to be acting in good faith at the time of a disclosure under this section unless a preponderance of the evidence establishes 1 or more of the following:

(a) That the former employing law enforcement agency knew that the information disclosed was false or misleading.

(b) That the former employing law enforcement agency disclosed the information with a reckless disregard for the truth.

(c) That the disclosure was specifically prohibited by a state or federal statute.

(6) A prospective employing law enforcement agency that receives a record maintained under section 3 from the law enforcement officer's former employing law enforcement agency or agencies shall, upon written request from the commission, provide a copy of the record requested to the commission for the purpose of determining compliance with licensing standards and procedures under the Michigan commission on law enforcement standards act, 1965 PA 203, MCL 28.601 to 28.615.

(7) A law enforcement agency that is required to maintain a record under section 3 shall, upon written request from the commission, provide a copy of the record requested to the commission for the purpose of determining compliance with licensing standards and procedures under the Michigan commission on law enforcement standards act, 1965 PA 203, MCL 28.601 to 28.615.

History: 2017, Act 128, Eff. Jan. 15, 2018 ;-- Am. 2018, Act 522, Eff. Mar. 28, 2019

PUBLIC BODY LAW ENFORCEMENT AGENCY ACT

Act 378 of 2004

AN ACT to allow certain public bodies to create law enforcement agencies and grant certain powers and authority to law enforcement officers employed by those agencies; to require those law enforcement officers to meet certain standards; to prescribe certain powers and duties of those law enforcement agencies; to provide for certain powers of public bodies; and to provide for certain powers and duties of state and local agencies and officers.

History: 2004, Act 378, Imd. Eff. Oct. 12, 2004

The People of the State of Michigan enact:

28.581 Short title.

Sec. 1.

This act shall be known and may be cited as the "public body law enforcement agency act".

History: 2004, Act 378, Imd. Eff. Oct. 12, 2004

28.582 Definitions.

Sec. 2.

As used in this act:

(a) "Governing entity" means either of the following, as applicable:

(i) For any public body except a public body described in subparagraph (ii), the governing board of the public body.

(ii) In the case of a public body that is a qualifying school district under part 5a of the revised school code, 1976 PA 451, MCL 380.371 to 380.376, the chief executive officer of the school district, subject to the concurrence of the school reform board of the school district.

(b) "Public body" means either of the following, within this state:

(i) A multicounty metropolitan district authorized and established pursuant to state law by 2 or more counties with a combined population of not less than 3,000,000, for the purpose of cooperative planning, promoting, acquiring, constructing, owning, developing, maintaining, or operating parks.

(ii) A school district in this state that has a membership of at least 20,000 pupils and that includes in its territory a city with a population of at least 180,000 as of the most recent federal decennial census.

History: 2004, Act 378, Imd. Eff. Oct. 12, 2004

28.583 Creation of law enforcement agency by public body.

Sec. 3.

A public body may create a law enforcement agency by resolution of its governing entity. The public body may grant to law enforcement officers of that law enforcement agency the same powers, immunities, and authority as are granted by law to peace officers and police officers to detect crime and to enforce the criminal laws of this state and to enforce state laws, local ordinances, and the ordinances and regulations of the public body. Law enforcement officers to whom the authority of peace officers and police officers is granted under this section are considered peace officers of this state and have the authority of police officers provided under the Michigan vehicle code, 1949 PA 300, MCL 257.1 to 257.923, and as provided under the code of criminal procedure, 1927 PA 175, MCL 760.1 to 777.69.

History: 2004, Act 378, Imd. Eff. Oct. 12, 2004

28.584 Approval of prosecuting attorney and sheriff; public hearings.

Sec. 4.

(1) A public body shall not create a law enforcement agency under this act unless, before that agency is created, the governing entity obtains the approval of the prosecuting attorney of each county within which the public body owns, maintains, or controls property. If the property of the public body is located entirely within 1 city, the public body also shall obtain the approval of the chief of police of that city. If the property of the public body is not located entirely within 1 city, the public body also shall obtain the approval of the sheriff of each county within which the public body owns, maintains, or controls property. If all the property of the public body is located within a county which does not have a first class school district as defined in 1976 PA 451, the public body shall also obtain the approval of the county sheriff. Before granting that approval, the prosecuting attorney, the sheriff, if required, and the chief of police, if required, shall make a determination that the proposed law enforcement agency is needed to assure adequate public safety on the property of the public body and that the proposed agency can comply with the minimum guidelines established under section 6.

(2) In addition to the requirements of subsection (1), before creating a law enforcement agency under this act, the governing entity shall hold not fewer than 2 public hearings in the proposed law enforcement agency's jurisdiction on the question of creating the proposed law enforcement agency. The governing entity shall make a record of the hearing and shall provide copies of the record to all of the prosecuting attorneys, sheriffs, and chiefs of police from whom approval is required by this section.

History: 2004, Act 378, Imd. Eff. Oct. 12, 2004

28.585 Law enforcement agency oversight committee.

Sec. 5.

(1) A public body that creates a law enforcement agency under this act shall appoint a law enforcement agency oversight committee consisting of not less than 6 individuals nominated and appointed by the governing entity of the public body, as follows:

(a) Two elected officials from a city, village, township, or county in which all or part of the property of the public body is located.

(b) Not less than 2 representatives of local law enforcement, 1 of whom shall not be of supervisory or management rank.

(c) Two individuals representing the general public who reside within the proposed law enforcement agency's jurisdiction.

(2) A law enforcement agency oversight committee shall receive and address public complaints concerning that

law enforcement agency or its officers. The committee may recommend to the public body that an investigation be conducted regarding alleged misconduct by any law enforcement officer from that law enforcement agency.

(3) A law enforcement agency created under this act shall not begin operations until the oversight committee for that law enforcement agency is appointed and takes office.

History: 2004, Act 378, Imd. Eff. Oct. 12, 2004

28.586 Law enforcement agency; requirement of public funding, liability insurance, and written policies; documentation; failure to maintain standards.

Sec. 6.

(1) A law enforcement agency created under this act shall comply with all of the following requirements:

(a) The agency shall be funded by the appropriation of public funds only.

(b) The agency shall maintain liability insurance.

(c) The agency shall establish and abide by written policies pertaining to all of the following:

(i) The authority of its law enforcement officers, including the extent of those officers' authority to enforce the criminal laws of this state and other state laws, local ordinances, and ordinances and regulations of the public body. If the law enforcement officers of that agency are granted any additional authority through deputization by a county sheriff or chief of police, the written policies shall describe that authority.

(ii) The specific geographic boundaries of the agency's jurisdiction.

(iii) The authority and responsibility of the chief law enforcement officer of the agency.

(iv) Employee discipline.

(v) The legal status of agencies and personnel who respond to mutual aid requests.

(vi) Any other written policy or procedure consistent with a policy or procedure implemented by the sheriff or chief of police whose approval is required under section 4.

(vii) The requirement to maintain employment history records under the Michigan commission on law enforcement standards act, 1965 PA 203, MCL 28.601 to 28.615.

(viii) Any other policy or procedure required by statute.

(d) The agency shall develop and maintain an organizational chart describing the structure of the agency and the responsibilities and authority within the agency and shall develop and maintain written employment position descriptions for all personnel in the agency.

(2) A public body that creates a law enforcement agency under this act shall present written documentation of compliance with this section to each county prosecuting attorney and sheriff, or chief of police when applicable, before approval is granted under section 4. A copy of this documentation shall be filed with the Michigan commission on law enforcement standards along with written approval from all affected prosecuting attorneys, sheriffs, or chiefs of police.

(3) The public body shall maintain compliance with the requirements of this section. Failure to maintain these minimum standards shall constitute just cause for the county prosecuting attorneys and sheriffs or chiefs of police, by unanimous written approval, to withdraw the approval granted under section 4. Before withdrawal of that approval, the prosecuting attorney and sheriff or chief of police shall hold not fewer than 2 public hearings in the law enforcement agency's jurisdiction on the question of whether maintenance of minimum standards has failed.

History: 2004, Act 378, Imd. Eff. Oct. 12, 2004 ;-- Am. 2016, Act 298, Eff. Jan. 2, 2017

28.587 Maintenance of employment history records; compliance with Michigan commission on law enforcement standards act.

Sec. 7.

(1) A public body that creates a law enforcement agency under this act shall comply with the requirement to maintain employment history records for officers in its employ under the Michigan commission on law enforcement standards act, 1965 PA 203, MCL 28.601 to 28.615.

(2) Law enforcement officers to whom the powers, immunities, and authority of peace and police officers are granted under section 3 shall meet the minimum employment standards of the Michigan commission on law enforcement standards act, 1965 PA 203, MCL 28.601 to 28.615.

History: 2004, Act 378, Imd. Eff. Oct. 12, 2004 ;-- Am. 2016, Act 298, Eff. Jan. 2, 2017

28.588 Passage of rules, regulations, and ordinances by multicounty metropolitan district; penalties; notice.

Sec. 8.

(1) The governing board of a public body that is a multicounty metropolitan district may do the following:

(a) Adopt and amend all necessary rules, regulations, and ordinances for the management, government, and use of any property under its control, establish penalties for the violation of the rules, regulations, and ordinances, and enforce the penalties.

(b) Adopt and enact rules, regulations, and ordinances designed to safeguard the public peace and health and for the safety of persons and property upon or within the limits of the properties under its control. The subjects of the rules, regulations, and ordinances may include, but not be limited to, the proper policing and supervision of persons and property, the regulation or prohibition of parking, and the regulation of signs and other things which may impede or make dangerous the use of roads, lanes, or thoroughfares, within the limits of the properties under the governing board's control.

(2) The governing board of the public body that adopts an ordinance under this section shall provide in each ordinance a sanction for violation of the ordinance. Violations may be punishable by imprisonment for not more than 93 days or a fine of not more than $500.00, or both, if the violation substantially corresponds to a violation of state law that is a misdemeanor for which the maximum period of imprisonment is 93 days. To the extent permitted by state law, the governing board may adopt an ordinance that designates a violation of the ordinance as a state civil infraction and provides a civil fine for that violation.

(3) An ordinance passed by the governing board of a public body under this section shall be published once in a newspaper of general circulation within the territory of the public body. An ordinance is effective immediately upon its publication, unless a specific effective date that is subsequent to the date of the publication of the ordinance is provided for in the ordinance. The publication of a summary or a true copy of an ordinance after final passage, as a part of the published proceedings of the governing board, constitutes publication of the ordinance.

History: 2004, Act 378, Imd. Eff. Oct. 12, 2004

28.589 Jurisdiction of law enforcement agency.

Sec. 9.

(1) Except as provided in subsection (2), the jurisdiction of law enforcement officers appointed under section 3 is limited to property owned or leased by the public body, wherever situated in this state, and shall extend to any public right-of-way traversing or immediately contiguous to the property. The jurisdiction of those law enforcement officers may be extended by state law governing peace officers or through deputization by a county sheriff if authorized by the governing entity.

(2) Notwithstanding subsection (1), the jurisdiction of law enforcement officers who are granted powers and authority under section 3 and are employed by a school district shall include all territory within the boundaries of the school district and all property outside the boundaries of the school district that is owned, leased, or rented by or is otherwise under the legal control of the school district that employs the public safety officers.

(3) A public law enforcement agency established under section 3 and each local law enforcement agency with which it has overlapping jurisdiction shall enter into a memorandum of understanding that establishes reasonable communication and coordination efforts between those law enforcement agencies. If the public law enforcement agency is a qualifying school district under section 2(b)(ii), the memorandum of understanding shall also establish jurisdiction of the public law enforcement agency.

(4) This act does not limit the jurisdiction of state, county, or municipal peace officers.

History: 2004, Act 378, Imd. Eff. Oct. 12, 2004

28.590 Submission of monthly uniform crime reports.

Sec. 10.

A law enforcement agency created under this act shall submit monthly uniform crime reports pertaining to crimes occurring within the agency's jurisdiction to the department of state police in the manner prescribed in section 1 of 1968 PA 319, MCL 28.251.

History: 2004, Act 378, Imd. Eff. Oct. 12, 2004

MICHIGAN COMMISSION ON LAW ENFORCEMENT STANDARDS ACT

Act 203 of 1965

AN ACT to provide for the creation of the commission on law enforcement standards; to prescribe its membership, powers, and duties; to prescribe the reporting responsibilities of certain state and local agencies; to provide for additional costs in criminal cases; to provide for the establishment of the law enforcement officers training fund; and to provide for disbursement of allocations from the law enforcement officers training fund to local agencies of government participating in a police training program.

History: 1965, Act 203, Eff. Jan. 1, 1966 ;-- Am. 1998, Act 237, Imd. Eff. July 3, 1998

The People of the State of Michigan enact:

28.601 Short title.

Sec. 1.

This act shall be known and may be cited as the "Michigan commission on law enforcement standards act".

History: 1965, Act 203, Eff. Jan. 1, 1966 ;-- Am. 1998, Act 237, Imd. Eff. July 3, 1998 ;-- Am. 2016, Act 289, Eff. Jan. 2, 2017
Compiler's Notes: For transfer of statutory authority, powers, duties, functions, and responsibilities of the Michigan justice training commission, the Michigan justice training fund, the commission on law enforcement standards, and the law enforcement officers training fund to the new Michigan commission on law enforcement standards by type III transfer, see E.R.O. No. 2001-2, compiled at MCL 28.621 of the Michigan compiled laws.

28.602 Definitions.

Sec. 2.

As used in this act:
(a) "Adjudication of guilt" means any of the following:
(i) Entry of a judgment or verdict of guilty, or guilty but mentally ill, following a trial.
(ii) Entry of a plea of guilty or nolo contendere.
(iii) Entry of any of the adjudications specified in subparagraph (i) or (ii), in conjunction with an order entered

under section 1 of chapter XI of the code of criminal procedure, 1927 PA 175, MCL 771.1, or any other order delaying sentence.

(iv) Entry of any of the adjudications specified in subparagraph (i) or (ii), in conjunction with an assignment to the status of youthful trainee under the Holmes youthful trainee act, as provided in section 11 of chapter II of the code of criminal procedure, 1927 PA 175, MCL 762.11.

(v) Entry of any of the adjudications specified in subparagraph (i) or (ii), in conjunction with probation under section 7411 of the public health code, 1978 PA 368, MCL 333.7411.

(vi) Entry of any of the adjudications specified in subparagraph (i) or (ii), in conjunction with probation under section 4a of chapter IX of the code of criminal procedure, 1927 PA 175, MCL 769.4a.

(b) "Commission" means the Michigan commission on law enforcement standards created in this act or, by express delegation of the Michigan commission on law enforcement standards, its executive director and staff.

(c) "Contested case" means that term as defined in section 3 of the administrative procedures act of 1969, 1969 PA 306, MCL 24.203.

(d) "Executive director" means the executive director of the commission appointed under this act.

(e) "Law enforcement agency" means an entity that is established and maintained in accordance with the laws of this state and is authorized by the laws of this state to appoint or employ law enforcement officers. Law enforcement agency includes a public body corporate that satisfies both of the following conditions:

(i) Is established and maintained as a separate legal entity pursuant to an interlocal agreement under the urban cooperation act of 1967, 1967 (Ex Sess) PA 7, MCL 124.501 to 124.512, between a city that is authorized by the laws of this state to appoint or employ law enforcement officers and an authority under the metropolitan transportation authorities act of 1967, 1967 PA 204, MCL 124.401 to 124.426.

(ii) Is authorized by the laws of this state to appoint or employ law enforcement officers.

(f) "Law enforcement officer" means:

(i) Except as provided in subparagraph (ii), an individual employed by a law enforcement agency as 1 or more of the following:

(A) An individual authorized by law, including common law, to prevent and detect crime and enforce the general criminal laws of this state. This subdivision does not include an individual employed solely because he or she occupies any other office or position.

(B) An individual employed as a Michigan tribal law enforcement officer by a federally recognized Indian tribe that has trust lands located within this state, subject to a written instrument authorizing the individual to enforce the laws of this state.

(C) The sergeant at arms or any assistant sergeant at arms of either house of the legislature who is commissioned as a police officer by that respective house of the legislature as provided by the legislative sergeant at arms police powers act, 2001 PA 185, MCL 4.381 to 4.382.

(D) A law enforcement officer of a law enforcement agency created by a public body under section 3 of the public body law enforcement agency act, 2004 PA 378, MCL 28.583.

(E) A county prosecuting attorney's investigator sworn and fully empowered by the sheriff of that county as provided under article VII of the state constitution of 1963 and section 70 of 1846 RS 14, MCL 51.70.

(F) A fire arson investigator from a fire department within a village, city, township, or county who is sworn and fully empowered by the chief of police of that village, city, township, or county.

(G) Officers and investigators appointed by state departments represented on the Michigan highway reciprocity board as provided under section 15 of 1960 PA 124, MCL 3.175.

(H) A superintendent, watchperson, or guard appointed or chosen as provided under sections 1 and 3 of 1905 PA 80, MCL 19.141 and 19.143.

(I) A commissioner or officer of the department of state police as described under section 6 of 1935 PA 59, MCL 28.6.

(J) A conservation officer appointed by the department of state police as provided under section 6a of 1935 PA 59, MCL 28.6a.

(K) A general law township constable elected or appointed to perform both statutory criminal and civil duties as provided under section 82 of 1846 RS 16, MCL 41.82.

(L) An officer appointed to a general law township police department as provided under section 6 of 1951 PA 33, MCL 41.806.

(M) A marshal, policeman, watchman, or officer appointed to a charter township police force as provided under section 12 of the charter township act, 1947 PA 359, MCL 42.12.

(N) A park ranger appointed by a county or regional parks and recreation commission as provided under section 14 of 1965 PA 261, MCL 46.364.

(O) A sheriff elected as provided under section 4 of article VII of the state constitution of 1963 or appointed as provided under section 11 of article V of the state constitution of 1963.

(P) An undersheriff or deputy sheriff appointed as provided under section 70 of 1846 RS 14, MCL 51.70.

(Q) A police officer appointed by a general law village as provided under section 13 of the general law village act, 1895 PA 3, MCL 70.13.

(R) A police officer of a home rule village with the authority described in sections 22 and 22b of the home rule village act, 1909 PA 278, MCL 78.22 and 78.22b.

(S) A marshal serving as chief of police of a fourth class city as provided under section 16 of chapter VII of the fourth class city act, 1895 PA 215, MCL 87.16.

(T) A constable of a fourth class city as authorized under section 24 of chapter VII of the fourth class city act, 1895 PA 215, MCL 87.24.

(U) A police chief, policeman, or night watchman appointed under section 1 of chapter XII of the fourth class city act, 1895 PA 215, MCL 92.1.

(V) A police officer or constable as authorized under sections 3 and 32 to 34a of the home rule city act, 1909 PA 279, MCL 117.3 and 117.32 to 117.34a.

(W) An airport law enforcement officer, guard, or police officer appointed by a public airport authority as provided under section 116 of the aeronautics code of the state of Michigan, 1945 PA 327, MCL 259.116.

(X) A conservation officer appointed by the director of the department of natural resources as provided under section 1 of 1986 PA 109, MCL 300.21, and as authorized under sections 1501, 1601, and 1606(1) of the natural resources and environmental protection act, 1994 PA 451, MCL 324.1501, 324.1601, and 324.1606.

(Y) A public safety officer granted law enforcement officer authority and employed by a department of public safety established under section 1606b of the revised school code, 1976 PA 451, MCL 380.1606b.

(Z) A public safety officer authorized by a community college as provided under section 128 of the community college act of 1966, 1966 PA 331, MCL 389.128.

(AA) A public safety officer of a public safety department established by the board of control of Saginaw Valley State University as provided under section 5a of 1965 PA 278, MCL 390.715a.

(BB) A public safety officer of a higher education institution authorized under section 1 of 1990 PA 120, MCL 390.1511.

(CC) An investigator appointed by the attorney general as provided under section 10 of the Medicaid false claim act, 1977 PA 72, MCL 400.610.

(DD) An investigator appointed by the attorney general under section 35 of 1846 RS 12, MCL 14.35, as described in the opinion of the attorney general, OAG, 1977 No. 5236 (October 20, 1977).

(EE) An investigator appointed by the attorney general as provided under section 8 of the health care false claim act, 1984 PA 323, MCL 752.1008.

(FF) A railroad police officer appointed, commissioned, and acting as provided under section 367 of the railroad code of 1993, 1993 PA 354, MCL 462.367.

(GG) An inspector appointed under section 13 of article V of the motor carrier act, 1933 PA 254, MCL 479.13.

(HH) A law enforcement officer licensed under this act whose duties are performed in conjunction with a joinder of 2 or more municipal corporations under 1951 PA 35, MCL 124.1 to 124.13.

(II) A law enforcement officer licensed under this act whose duties are performed in conjunction with an interlocal agreement entered into under the urban cooperation act of 1967, 1967 (Ex Sess) PA 7, MCL 124.501 to 124.512.

(JJ) A law enforcement officer licensed under this act whose duties are performed in conjunction with a transfer of functions or responsibilities under 1967 (Ex Sess) PA 8, MCL 124.531 to 124.536.

(KK) A law enforcement officer licensed under this act whose duties have been transferred to an authority and who is given a comparable position of employment with that authority as provided under 1988 PA 57, MCL 124.601 to 124.614.

(LL) A private college security officer appointed under section 37 of the private security business and security alarm act, 1968 PA 330, MCL 338.1087, who is licensed under section 9d.

(MM) A transit police officer employed by a public body corporate created pursuant to an interlocal agreement under the urban cooperation act of 1967, 1967 (Ex Sess) PA 7, MCL 124.501 to 124.512, between a city and an authority under the metropolitan transportation authorities act of 1967, 1967 PA 204, MCL 124.401 to 124.426.

(ii) "Law enforcement officer" does not include any of the following:

(A) An individual authorized to issue citations as a volunteer as provided under section 675d of the Michigan vehicle code, 1949 PA 300, MCL 257.675d.

(B) A security employee authorized by the director of the department of state police as provided under section 6c of 1935 PA 59, MCL 28.6c.

(C) A motor carrier enforcement officer appointed under section 6d of 1935 PA 59, MCL 28.6d, as qualified under section 5 of 1956 PA 62, MCL 257.955, or as authorized under section 73 of the pupil transportation act, 1990 PA 187, MCL 257.1873.

(D) The director of the department of agriculture and rural development or his or her representative granted peace officer authority as provided in section 9h of the motor fuels quality act, 1984 PA 44, MCL 290.649h.

(E) An agent employed and authorized under section 27 of the private security business and security alarm act, 1968 PA 330, MCL 338.1077.

(F) An attendance officer granted the powers of a deputy sheriff as provided in section 1571 of the revised school code, 1976 PA 451, MCL 380.1571.

(G) A park and recreation officer commissioned under section 1606(2) of the natural resources and environmental protection act, 1994 PA 451, MCL 324.1606.

(H) A volunteer conservation officer appointed by the department of natural resources under section 1607 of the natural resources and environmental protection act, 1994 PA 451, MCL 324.1607.

(I) A state forest officer commissioned under section 83107 of the natural resources and environmental protection act, 1994 PA 451, MCL 324.83107.

(J) A special deputy appointed under section 70 of 1846 RS 14, MCL 51.70.

(K) A limited enforcement officer appointed to conduct salvage vehicle inspections under section 217c of the Michigan vehicle code, 1949 PA 300, MCL 257.217c, who is not otherwise employed as a law enforcement officer.

(L) A private security guard or private security police officer licensed under the private security business and security alarm act, 1968 PA 330, MCL 338.1051 to 338.1092, or a private college security officer authorized under section 37 of the private security business and security alarm act, 1968 PA 330, MCL 338.1087, who is not licensed under section 9d.

(M) The attorney general.

(N) The secretary of state.

(O) A member of a sheriff's posse.

(P) A reserve officer.

(Q) An officer or investigator of the department of state designated under section 213 of the Michigan vehicle code, 1949 PA 300, MCL 257.213.

(R) An authorized agent of the state transportation department or a county road commission performing duties described under section 724 of the Michigan vehicle code, 1949 PA 300, MCL 257.724.

(S) An enforcement officer of the aeronautics commission authorized under section 55 of the aeronautics code of the state of Michigan, 1945 PA 327, MCL 259.55.

(T) A railroad conductor acting under section 3 of 1913 PA 68, MCL 436.203.

(U) An inspector authorized to enforce the Michigan liquor control code of 1998, 1998 PA 58, MCL 436.1101 to 436.2303, and rules promulgated by the liquor control commission, under section 201 of the Michigan liquor control code of 1998, 1998 PA 58, MCL 436.1201.

(V) An individual not licensed under this act whose law enforcement duties are performed in conjunction with a joinder of 2 or more municipal corporations under 1951 PA 35, MCL 124.1 to 124.13.

(W) An individual not licensed under this act whose law enforcement duties are performed in conjunction with an interlocal agreement entered into under the urban cooperation act of 1967, 1967 (Ex Sess) PA 7, MCL 124.501 to 124.512.

(X) An individual not licensed under this act whose law enforcement duties are performed in conjunction with a transfer of functions or responsibilities under 1967 (Ex Sess) PA 8, MCL 124.531 to 124.536.

(Y) An individual not licensed under this act whose law enforcement duties have been transferred to an authority and who is given a comparable position of employment with that authority as provided under 1988 PA 57, MCL 124.601 to 124.614.

(Z) A marshal appointed under section 11 of 1889 PA 39, MCL 455.61, or section 15 of 1929 PA 137, MCL 455.215.

(g) "Law enforcement training academy" means any of the following:

(i) An agency basic law enforcement training academy.

(ii) A preservice college basic law enforcement training academy.

(iii) A regional basic law enforcement training academy.

(h) "License" means documentation of licensure by the commission under this act. License includes a certificate issued under this act before January 2, 2017.

(i) "Licensing standards" means the requirements with which a person must comply for licensure as a law enforcement officer under this act.

(j) "Licensure" means a determination by the commission that both of the following occurred in compliance with this act and rules promulgated under this act:

(i) The person to whom the license is issued commenced employment as a law enforcement officer, subject to a written oath of office or other written instrument conferring law enforcement authority.

(ii) The law enforcement agency employing the individual, or the law enforcement agency or other governmental agency conferring law enforcement authority upon the individual, attested to the commission that the individual complied with the licensing standards.

(k) "Michigan tribal law enforcement officer" means an individual employed as a law enforcement officer by a federally recognized Indian tribe that has trust lands located within this state, subject to a written instrument authorizing the individual to enforce the laws of this state.

(l) "Rule" means a rule promulgated under the administrative procedures act of 1969, 1969 PA 306, MCL 24.201 to 24.328.

History: 1965, Act 203, Eff. Jan. 1, 1966 ;-- Am. 1968, Act 220, Imd. Eff. June 24, 1968 ;-- Am. 1970, Act 187, Imd. Eff. Jan. 1, 1971 ;-- Am. 1994, Act 155, Eff. Mar. 30, 1995 ;-- Am. 1995, Act 204, Imd. Eff. Nov. 29, 1995 ;-- Am. 1998, Act 237, Imd. Eff. July 3, 1998 ;-- Am. 2001, Act 186, Imd. Eff. Dec. 21, 2001 ;-- Am. 2004, Act 379, Imd. Eff. Oct. 12, 2004 ;-- Am. 2013, Act 170, Imd. Eff. Nov. 18, 2013 ;-- Am. 2016, Act 289, Eff. Jan. 2, 2017 ;-- Am. 2021, Act 42, Imd. Eff. July 1, 2021

Compiler's Notes: For transfer of statutory authority, powers, duties, functions, and responsibilities of the Michigan justice training commission, the Michigan justice training fund, the commission on law enforcement standards, and the law enforcement officers training fund to the new Michigan commission on law enforcement standards by type III transfer, see E.R.O. No. 2001-2, compiled at MCL 28.621 of the Michigan compiled laws.

28.603 Michigan commission on law enforcement standards; creation; membership; terms; appointment; vacancy.

Sec. 3.

(1) The Michigan commission on law enforcement standards is created to carry out the intent of this act.

(2) The commission consists of the following members:

(a) The attorney general, or his or her designated representative from within the department of attorney general.

(b) The director of the department of state police, or his or her designated representative who is a police officer within the department of state police.

(c) The chief of a police department of a city that has a population of more than 600,000, or his or her designee who is a command officer within that department.

(d) The following members appointed by the governor, subject to the advice and consent of the senate under section 6 of article V of the state constitution of 1963, as follows:

(i) Three individuals nominated by the Michigan Association of Chiefs of Police.

(ii) Three individuals nominated by the Michigan Sheriffs' Association.

(iii) One individual nominated by the Prosecuting Attorneys Association of Michigan.

(iv) One individual nominated by the Criminal Defense Attorneys of Michigan.

(v) One individual nominated by the Michigan State Police Troopers Association.

(vi) One individual nominated by the Michigan chapter of the Fraternal Order of Police.

(vii) One individual nominated by the Police Officers Association of Michigan.

(viii) One individual nominated by a police association not otherwise represented on the commission representing law enforcement officers employed by a law enforcement agency employing more than 10% of the police officers in this state.

(ix) One individual nominated by the Police Officers Labor Council of Michigan.

(x) One individual nominated by the Michigan Association of Police.

(xi) One individual nominated by the Deputy Sheriff's Association of Michigan.

(xii) One non-law enforcement individual representing the public.

(3) The terms of the members of the commission who were previously appointed by the governor and serving on the commission on the effective date of the amendatory act that added this subsection expire on the effective date of the amendatory act that added this subsection.

(4) Not more than 90 days after the effective date of the amendatory act that added this subsection, the governor shall appoint members to the commission as provided in subsection (2)(d).

(5) The governor may appoint any individual meeting the membership requirements of the organizations listed in subsection (2)(d)(i) to (xii) if the organization permitted to nominate an individual to the commission fails to provide a nominee not less than 30 days before a vacancy created by the expiration of a term, or not less than 30 days after the effective date of any other vacancy.

(6) An individual selected under subsection (2)(d) shall serve as a commission member only while serving as a member of the organization that submitted his or her name to the governor for appointment.

(7) Members of the commission appointed or reappointed under subsection (2)(d)(i) to (xii) shall be appointed for a term of 4 years except that, of the members first appointed to the commission, 6 shall serve for 1 year, 5 shall serve for 2 years, and 5 shall serve for 3 years.

(8) The expiration dates of appointments under subsection (2)(d) shall be December 31 of the calendar year in which they expire.

(9) A vacancy on the commission occurring other than by expiration of a term shall be filled by the governor in the same manner as the original appointment for the balance of the unexpired term.

History: 1965, Act 203, Eff. Jan. 1, 1966 ;-- Am. 1996, Act 545, Imd. Eff. Jan. 15, 1997 ;-- Am. 1998, Act 237, Imd. Eff. July 3, 1998 ;-- Am. 2016, Act 289, Eff. Jan. 2, 2017

Compiler's Notes: For transfer of statutory authority, powers, duties, functions, and responsibilities of the Michigan justice training commission, the Michigan justice training fund, the commission on law enforcement standards, and the law enforcement officers training fund to the new Michigan commission on law enforcement standards by type III transfer, see E.R.O. No. 2001-2, compiled at MCL 28.621 of the Michigan compiled laws.For additional members added to the Michigan commission on law enforcement standards, see E.R.O. No. 2020-2, compiled at MCL 28.620.

28.604 Repealed. 2016, Act 289, Eff. Jan. 2, 2017.

Compiler's Notes: The repealed section pertained to terms, vacancies, and reappointment of members of commission on law enforcement standards.

28.605 Commission; officers; terms; oath not required; disqualification from public office or employment.

Sec. 5.

(1) The commission shall elect from among its members a chairperson and a vice-chairperson who shall serve for 1-year terms and who may be reelected.

(2) Membership on the commission does not constitute holding a public office, and members of the commission are not required to take and file oaths of office before serving on the commission.

(3) A member of the commission is not disqualified from holding any public office or employment by reason of his or her appointment or membership on the commission and shall not forfeit any public office or employment because of his or her appointment to the commission, notwithstanding any general, special, or local law, ordinance, or city charter.

History: 1965, Act 203, Eff. Jan. 1, 1966 ;-- Am. 1998, Act 237, Imd. Eff. July 3, 1998 ;-- Am. 2016, Act 289, Eff. Jan. 2, 2017
Compiler's Notes: For transfer of statutory authority, powers, duties, functions, and responsibilities of the Michigan justice training commission, the Michigan justice training fund, the commission on law enforcement standards, and the law enforcement officers training fund to the new Michigan commission on law enforcement standards by type III transfer, see E.R.O. No. 2001-2, compiled at MCL 28.621 of the Michigan compiled laws.

28.606 Commission; meetings; procedures and requirements; conducting business at public meeting; notice; voting.

Sec. 6.

(1) The commission shall meet not less than 4 times in each year and shall hold special meetings when called by the chairperson or, in the absence of the chairperson, by the vice-chairperson. A special meeting of the commission shall be called by the chairperson upon the written request of 5 members of the commission.

(2) The commission shall establish its own procedures and requirements with respect to quorum, place and conduct of its meetings, and other matters.

(3) The commission may establish other procedures and requirements governing its operations to carry out the intent of this act.

(4) The commission's business shall be conducted in compliance with the open meetings act, 1976 PA 267, MCL 15.261 to 15.275. Public notice of the time, date, and place of the meeting shall be given in the manner required by the open meetings act, 1976 PA 267, MCL 15.261 to 15.275. The commission may take action at a meeting upon a vote of the majority of its members who are present at the meeting.

History: 1965, Act 203, Eff. Jan. 1, 1966 ;-- Am. 1978, Act 185, Imd. Eff. June 4, 1978 ;-- Am. 1998, Act 237, Imd. Eff. July 3, 1998 ;-- Am. 2016, Act 289, Eff. Jan. 2, 2017
Compiler's Notes: For transfer of statutory authority, powers, duties, functions, and responsibilities of the Michigan justice training commission, the Michigan justice training fund, the commission on law enforcement standards, and the law enforcement officers training fund

to the new Michigan commission on law enforcement standards by type III transfer, see E.R.O. No. 2001-2, compiled at MCL 28.621 of the Michigan compiled laws.

28.607 Commission; annual report to governor.

Sec. 7.

The commission shall make an annual report to the governor that includes pertinent data regarding the law enforcement officer minimum standards and the degree of participation of municipalities in the training programs, and any other information the governor requests or the commission considers appropriate.

History: 1965, Act 203, Eff. Jan. 1, 1966 ;-- Am. 1998, Act 237, Imd. Eff. July 3, 1998 ;-- Am. 2016, Act 289, Eff. Jan. 2, 2017
Compiler's Notes: For transfer of statutory authority, powers, duties, functions, and responsibilities of the Michigan justice training commission, the Michigan justice training fund, the commission on law enforcement standards, and the law enforcement officers training fund to the new Michigan commission on law enforcement standards by type III transfer, see E.R.O. No. 2001-2, compiled at MCL 28.621 of the Michigan compiled laws.

28.608 Commission members; compensation; expenses.

Sec. 8.

The members of the commission shall serve without compensation. The members of the commission are entitled to their actual expenses in attending meetings and in the performance of their official duties.

History: 1965, Act 203, Eff. Jan. 1, 1966 ;-- Am. 1998, Act 237, Imd. Eff. July 3, 1998
Compiler's Notes: For transfer of statutory authority, powers, duties, functions, and responsibilities of the Michigan justice training commission, the Michigan justice training fund, the commission on law enforcement standards, and the law enforcement officers training fund to the new Michigan commission on law enforcement standards by type III transfer, see E.R.O. No. 2001-2, compiled at MCL 28.621 of the Michigan compiled laws.

28.609 Employment of law enforcement officers; licensing requirements and procedures; fingerprinting; rules; licensure process; granting or denying license; duties of law enforcement agency upon administering oath of office; license rendered inactive; reactivation; lapsed or revoked license; prohibited authority.

Sec. 9.

(1) This section applies to all law enforcement officers except individuals to whom sections 9a, 9b, 9c, and 9d apply. Employment of law enforcement officers to whom this section applies is subject to the licensing requirements and procedures of this section and section 9e. 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 prior basic law enforcement training and experience program for purposes of licensure under this section shall submit to fingerprinting as provided in section 11(3).

(2) The commission shall promulgate rules governing licensing standards and procedures for individuals licensed under this section. In promulgating the rules, the commission shall give consideration to the varying factors and special requirements of law enforcement agencies. Rules promulgated under this subsection must pertain to the following:

(a) Subject to section 9e, training requirements that may be met by completing either of the following:

(i) Preenrollment requirements, courses of study, attendance requirements, and instructional hours at an agency basic law enforcement training academy, a preservice college basic law enforcement training academy, or a regional basic law enforcement training academy.

(ii) The recognition of prior basic law enforcement training and experience program for granting a waiver from the licensing standard specified in subparagraph (i).

(b) Proficiency on a licensing examination administered after compliance with the licensing standard specified in subdivision (a).

(c) Physical ability.

(d) Psychological fitness.

(e) Education.

(f) Reading and writing proficiency.

(g) Minimum age.

(h) Whether or not a valid operator's or chauffeur's license is required for licensure.

(i) Character fitness, as determined by a background investigation supported by a written authorization and release executed by the individual for whom licensure is sought.

(j) Whether or not United States citizenship is required for licensure.

(k) Employment as a law enforcement officer.

(l) The form and manner for execution of a written oath of office by a law enforcement agency with whom the individual is employed, and the content of the written oath conferring authority to act with all of the law enforcement authority described in the laws of this state under which the individual is employed.

(m) The ability to be licensed and employed as a law enforcement officer under this section, without a restriction otherwise imposed by law.

(3) The licensure process under this section must follow the following procedures:

(a) Before executing the oath of office, an employing law enforcement agency verifies that the individual to whom the oath is to be administered complies with licensing standards.

(b) A law enforcement agency employing an individual licensed under this section authorizes the individual to exercise the law enforcement authority described in the laws of this state under which the individual is employed, by executing a written oath of office.

(c) Not more than 10 calendar days after executing the oath of office, the employing law enforcement agency shall attest in writing to the commission that the individual to whom the oath was administered satisfies the licensing standards by submitting an executed affidavit and a copy of the executed oath of office.

(4) If, upon reviewing the executed affidavit and executed oath of office, the commission determines that the individual complies with the licensing standards, the commission shall grant the individual a license.

(5) If, upon reviewing the executed affidavit and executed oath of office, the commission determines that the individual does not comply with the licensing standards, the commission may do any of the following:

(a) Supervise the remediation of errors or omissions in the affidavit and oath of office.

(b) Supervise the remediation of errors or omissions in the screening, procedures, examinations, testing, and other means used to verify compliance with the licensing standards.

(c) Supervise additional screening, procedures, examinations, testing, and other means used to determine compliance with the licensing standards.

(d) Deny the issuance of a license and inform the employing law enforcement agency.

(6) Upon being informed that the commission has denied issuance of a license, the employing law enforcement agency shall promptly inform the individual whose licensure was denied.

(7) An individual denied a license under this section shall not exercise the law enforcement authority described in the laws of this state under which the individual is employed. This subsection does not divest the individual of that authority until the individual has been informed that his or her licensure was denied.

(8) A law enforcement agency that has administered an oath of office to an individual under this section shall do all of the following, with respect to that individual:

(a) Report to the commission all personnel transactions affecting employment status in a manner prescribed in rules promulgated by the commission.

(b) Report to the commission concerning any action taken by the employing agency that removes the authority conferred by the oath of office, or that restores the individual's authority to that conferred by the oath of office, in a manner prescribed in rules promulgated by the commission.

(c) Maintain an employment history record.

(d) Collect, verify, and maintain documentation establishing that the individual complies with the licensing standards.

(9) An individual licensed under this section shall report all of the following to the commission:

(a) Criminal charges for offenses for which that individual's license may be revoked as described in this section, upon being informed of such charges, in a manner prescribed in rules promulgated by the commission.

(b) The imposition of a personal protection order against that individual after a judicial hearing under section 2950 or 2950a of the revised judicature act of 1961, 1961 PA 236, MCL 600.2950 and 600.2950a, or under the laws of any other jurisdiction, upon being informed of the imposition of such an order, in a manner prescribed in rules promulgated by the commission.

(10) A license issued under this section is rendered inactive, and may be reactivated, as follows:

(a) A license is rendered inactive if 1 or more of the following occur:

(i) An individual, having been employed as a law enforcement officer for fewer than 2,080 hours in aggregate, is

thereafter continuously not employed as a law enforcement officer for less than 1 year.

(ii) An individual, having been employed as a law enforcement officer for fewer than 2,080 hours in aggregate, is thereafter continuously subjected to a removal of the authority conferred by the oath of office for less than 1 year.

(iii) An individual, having been employed as a law enforcement officer for 2,080 hours or longer in aggregate, is thereafter continuously not employed as a law enforcement officer for less than 2 years.

(iv) An individual, having been employed as a law enforcement officer for 2,080 hours or longer in aggregate, is continuously subjected to a removal of the authority conferred by the oath of office for less than 2 years.

(b) An employing law enforcement agency may reactivate a license rendered inactive by complying with the licensure procedures described in subsection (3), excluding verification of and attestation to compliance with the licensing standards described in subsection (2)(a) to (g).

(c) A license that has been reactivated under this section is valid for all purposes described in this act.

(11) A license issued under this section is rendered lapsed, without barring further licensure under this act, if 1 or more of the following occur:

(a) An individual, having been employed as a law enforcement officer for fewer than 2,080 hours in aggregate, is thereafter continuously not employed as a law enforcement officer for 1 year.

(b) An individual, having been employed as a law enforcement officer for fewer than 2,080 hours in aggregate, is thereafter continuously subjected to a removal of the authority conferred by the oath of office for 1 year.

(c) An individual, having been employed as a law enforcement officer for 2,080 hours or longer in aggregate, is thereafter continuously not employed as a law enforcement officer for 2 years.

(d) An individual, having been employed as a law enforcement officer for 2,080 hours or longer in aggregate, is continuously subjected to a removal of the authority conferred by the oath of office for 2 years.

(12) The commission shall revoke a license granted under this section for any of the following circumstances and shall promulgate rules governing revocations under this subsection:

(a) The individual obtained the license by making a materially false oral or written statement or committing fraud in an affidavit, disclosure, or application to a law enforcement training academy, the commission, or a law enforcement agency at any stage of recruitment, selection, appointment, enrollment, training, or licensure application.

(b) The individual obtained the license because another individual made a materially false oral or written statement or committed fraud in an affidavit, disclosure, or application to a law enforcement training academy, the commission, or a law enforcement agency at any stage of recruitment, selection, appointment, enrollment, training, or licensure application.

(c) The individual has been subjected to an adjudication of guilt for a violation or attempted violation of a penal law of this state or another jurisdiction that is punishable by imprisonment for more than 1 year.

(d) The individual has been subjected to an adjudication of guilt for violation or attempted violation of 1 or more of the following penal laws of this state or laws of another jurisdiction substantially corresponding to the penal laws of this state:

(i) Section 625(1) or (8) of the Michigan vehicle code, 1949 PA 300, MCL 257.625, if the individual has a prior conviction, as that term is defined in section 625(25)(b) of the Michigan vehicle code, 1949 PA 300, MCL 257.625, that occurred within 7 years of the adjudication as described in section 625(9)(b) of the Michigan vehicle code, 1949 PA 300, MCL 257.625.

(ii) Section 7403(2)(c) or 7404(2)(a), (b), or (c) of the public health code, 1978 PA 368, MCL 333.7403 and 333.7404.

(iii) Section 81(4) or 81a or a misdemeanor violation of section 411h of the Michigan penal code, 1931 PA 328, MCL 750.81, 750.81a, and 750.411h.

(13) The following procedures and requirements apply to license revocation under this section:

(a) The commission shall initiate license revocation proceedings, including, but not limited to, the issuance of an order of summary suspension and notice of intent to revoke, upon obtaining notice of facts warranting license revocation.

(b) A hearing for license revocation must be conducted as a contested case under the administrative procedures act of 1969, 1969 PA 306, MCL 24.201 to 24.328.

(c) In lieu of participating in a contested case, an individual may voluntarily and permanently relinquish his or her law enforcement officer license by executing before a notary public an affidavit of license relinquishment prescribed by the commission.

(d) The commission need not delay or abate license revocation proceedings based on an adjudication of guilt if an appeal is taken from the adjudication of guilt.

(e) If the commission issues a final decision or order to revoke a license, that decision or order is subject to judicial review as provided in the administrative procedures act of 1969, 1969 PA 306, MCL 24.201 to 24.328. A summary suspension described in this section is not a final decision or order for purposes of judicial review.

(14) An individual licensed under this section shall not exercise the law enforcement authority described in the laws of this state under which the individual is employed if any of the following occur:

(a) The individual's license is rendered void by a court order or other operation of law.

(b) The individual's license is revoked.
(c) The individual's license is rendered inactive.
(d) The individual's license is rendered lapsed.

History: 1965, Act 203, Eff. Jan. 1, 1966 ;-- Am. 1970, Act 187, Imd. Eff. Jan. 1, 1971 ;-- Am. 1971, Act 31, Imd. Eff. May 26, 1971 ;-- Am. 1976, Act 422, Imd. Eff. Jan. 11, 1977 ;-- Am. 1985, Act 15, Imd. Eff. May 15, 1985 ;-- Am. 1994, Act 155, Eff. Mar. 30, 1995 ;-- Am. 1998, Act 237, Imd. Eff. July 3, 1998 ;-- Am. 2004, Act 379, Imd. Eff. Oct. 12, 2004 ;-- Am. 2005, Act 239, Imd. Eff. Nov. 22, 2005 ;-- Am. 2016, Act 289, Eff. Jan. 2, 2017 ;-- Am. 2017, Act 198, Imd. Eff. Dec. 15, 2017 ;-- Am. 2018, Act 552, Eff. Mar. 28, 2019
Compiler's Notes: For transfer of statutory authority, powers, duties, functions, and responsibilities of the Michigan justice training commission, the Michigan justice training fund, the commission on law enforcement standards, and the law enforcement officers training fund to the new Michigan commission on law enforcement standards by type III transfer, see E.R.O. No. 2001-2, compiled at MCL 28.621 of the Michigan Compiled Laws.
Admin Rule: R 28.4101 et seq.; R 28.4201 et seq.; and R 28.4351 et seq. of the Michigan Administrative Code.

28.609a Individuals elected or appointed to office of sheriff; licensure; procedures; duty of licensed individual to report certain information; validity of license; revocation.

Sec. 9a.

(1) This section applies only to individuals elected or appointed to the office of sheriff in this state. Employment of law enforcement officers to whom this section applies is subject to the licensing requirements and procedures of this section.
(2) The licensure process under this section shall comply with the following procedures:
(a) Not more than 10 calendar days after taking an oath of office for the office of sheriff in this state, an individual shall submit to the commission a copy of the executed oath of office.
(b) If, upon reviewing the executed oath of office, the commission determines that the individual has been elected or appointed to the office of sheriff in this state, the commission shall grant the individual a license.
(c) If, upon reviewing the executed oath of office, the commission determines that the individual has not been elected or appointed to the office of sheriff in this state, the commission may do either of the following:
(i) Verify, through other means, election or appointment to the office of sheriff in this state.
(ii) Deny the issuance of a license and inform the individual denied.
(3) An individual licensed under this section shall report all of the following to the commission:
(a) Criminal charges for offenses for which that individual's license may be revoked as described in this section, upon being informed of such charges, in a manner prescribed in rules promulgated by the commission.
(b) The imposition of a personal protection order against that individual after a judicial hearing under section 2950 or 2950a of the revised judicature act of 1961, 1961 PA 236, MCL 600.2950 and 600.2950a, or under the laws of any other jurisdiction, upon being informed of the imposition of such an order, in a manner prescribed in rules promulgated by the commission.
(4) A license granted under this section is valid until any of the following occur:
(a) A court order or other operation of law renders the license void.
(b) The individual's term of office as a sheriff in this state expires.
(c) The commission revokes the license as provided in this section.
(5) The commission shall revoke a license granted under this section for any of the following circumstances and shall promulgate rules governing revocations under this subsection:
(a) The individual obtained the license by making a materially false oral or written statement or committing fraud in an affidavit, disclosure, or application to a law enforcement training academy, the commission, or a law enforcement agency at any stage of recruitment, selection, appointment, enrollment, training, or licensure application.
(b) The individual obtained the license because another individual made a materially false oral or written statement or committed fraud in an affidavit, disclosure, or application to a law enforcement training academy, the commission, or a law enforcement agency at any stage of recruitment, selection, appointment, enrollment, training, or licensure application.
(c) The individual has been subjected to an adjudication of guilt for a violation or attempted violation of a penal law of this state or another jurisdiction that is punishable by imprisonment for more than 1 year.
(d) The individual has been subjected to an adjudication of guilt for violation or attempted violation of 1 or more of the following penal laws of this state or laws of another jurisdiction substantially corresponding to the penal laws of this state:
(i) Section 625(1) or (8) of the Michigan vehicle code, 1949 PA 300, MCL 257.625, if the individual has a prior conviction, as that term is defined in section 625(25)(b) of the Michigan vehicle code, 1949 PA 300, MCL 257.625,

that occurred within 7 years of the adjudication as described in section 625(9)(b) of the Michigan vehicle code, 1949 PA 300, MCL 257.625.

(ii) Sections 7403(2)(c) and 7404(2)(a), (b), and (c) of the public health code, 1978 PA 368, MCL 333.7403 and 333.7404.

(iii) Sections 81(4) and 81a and a misdemeanor violation of section 411h of the Michigan penal code, 1931 PA 328, MCL 750.81, 750.81a, and 750.411h.

(6) The following procedures and requirements apply to license revocation under this section:

(a) The commission shall initiate license revocation proceedings, including, but not limited to, the issuance of an order of summary suspension and notice of intent to revoke, upon obtaining notice of facts warranting license revocation.

(b) A hearing for license revocation shall be conducted as a contested case under the administrative procedures act of 1969, 1969 PA 306, MCL 24.201 to 24.328.

(c) In lieu of participating in a contested case, an individual may voluntarily and permanently relinquish his or her law enforcement officer license by executing before a notary public an affidavit of license relinquishment prescribed by the commission.

(d) The commission need not delay or abate license revocation proceedings based on an adjudication of guilt if an appeal is taken from the adjudication of guilt.

(e) If the commission issues a final decision or order to revoke a license, that decision or order is subject to judicial review as provided in the administrative procedures act of 1969, 1969 PA 306, MCL 24.201 to 24.328. A summary suspension described in this section is not a final decision or order for purposes of judicial review.

History: Add. 1998, Act 237, Imd. Eff. July 3, 1998 ;-- Am. 2016, Act 289, Eff. Jan. 2, 2017

Compiler's Notes: For transfer of statutory authority, powers, duties, functions, and responsibilities of the Michigan justice training commission, the Michigan justice training fund, the commission on law enforcement standards, and the law enforcement officers training fund to the new Michigan commission on law enforcement standards by type III transfer, see E.R.O. No. 2001-2, compiled at MCL 28.621 of the Michigan compiled laws.

28.609b Individuals employed as Michigan tribal law enforcement officers; fingerprinting; licensing requirements and procedures; rules; licensure process; granting or denying license; written instrument conferring authority; license rendered inactive; reactivation; lapsed or revoked license; prohibited authority.

Sec. 9b.

(1) This section applies only to individuals who are employed as Michigan tribal law enforcement officers in this state and are subject to a written instrument authorizing them to enforce the laws of this state. Conferring authority to enforce the laws of this state to law enforcement officers to whom this section applies is subject to the licensing requirements and procedures of this section and section 9e. 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 prior basic law enforcement training and experience program for purposes of licensure under this section shall submit to fingerprinting as provided in section 11(3).

(2) The commission shall promulgate rules governing licensing standards and procedures, pertaining to the following:

(a) Subject to section 9e, training requirements that may be met by completing either of the following:

(i) Preenrollment requirements, courses of study, attendance requirements, and instructional hours at an agency basic law enforcement training academy, a preservice college basic law enforcement training academy, or a regional basic law enforcement training academy.

(ii) The recognition of prior basic law enforcement training and experience program for granting a waiver from the licensing standard specified in subparagraph (i).

(b) Proficiency on a licensing examination administered after compliance with the licensing standard specified in subdivision (a).

(c) Physical ability.

(d) Psychological fitness.

(e) Education.

(f) Reading and writing proficiency.

(g) Minimum age.

(h) Whether or not a valid operator's or chauffeur's license is required for licensure.

(i) Character fitness, as determined by a background investigation supported by a written authorization and

release executed by the individual for whom licensure is sought.

(j) Whether or not United States citizenship is required for licensure.

(k) Employment as a Michigan tribal law enforcement officer.

(l) The form and manner for execution of a written instrument conferring authority upon the individual to enforce the laws of this state, consisting of any of the following:

(i) Deputation by a sheriff of this state, conferring authority upon the individual to enforce the laws of this state.

(ii) Appointment as a law enforcement officer by a law enforcement agency, conferring authority upon the individual to enforce the laws of this state.

(iii) Execution of a written agreement between the Michigan tribal law enforcement agency with whom the individual is employed and a law enforcement agency, conferring authority upon the individual to enforce the laws of this state.

(iv) Execution of a written agreement between this state, or a subdivision of this state, and the United States, conferring authority upon the individual to enforce the laws of this state.

(m) The ability to be licensed and employed as a law enforcement officer under this section, without a restriction otherwise imposed by law.

(3) The licensure process under this section must follow the following procedures:

(a) A law enforcement agency or other governmental agency conferring authority upon a Michigan tribal law enforcement officer as provided in this section shall confer the authority to enforce the laws of this state by executing a written instrument as provided in this section.

(b) Before executing the written instrument, a law enforcement agency or other governmental agency shall verify that the individual complies with the licensing standards.

(c) Not more than 10 calendar days after the effective date of the written instrument, the law enforcement agency or other governmental agency executing the written instrument shall attest in writing to the commission that the individual to whom the authority was conferred satisfies the licensing standards, by submitting an executed affidavit and a copy of the written instrument.

(4) If, upon reviewing the executed affidavit and the written instrument, the commission determines that the individual complies with the licensing standards, the commission shall grant the individual a license.

(5) If, upon reviewing the executed affidavit and the written instrument, the commission determines that the individual does not comply with the licensing standards, the commission may do any of the following:

(a) Supervise the remediation of errors or omissions in the affidavit and oath of office.

(b) Supervise the remediation of errors or omissions in the screening, procedures, examinations, testing, and other means used to verify compliance with the licensing standards.

(c) Supervise additional screening, procedures, examinations, testing, and other means used to determine compliance with the licensing standards.

(d) Deny the issuance of a license and inform the law enforcement agency or other governmental agency conferring authority to enforce the laws of this state upon an individual to whom this section applies.

(6) Upon being informed that the commission has denied issuance of a license, a law enforcement agency or other governmental agency conferring authority to enforce the laws of this state upon an individual to whom this section applies shall promptly inform the individual denied.

(7) An individual denied a license under this section shall not exercise the law enforcement authority described in a written instrument conferring authority upon the individual to enforce the laws of this state. This subsection does not divest the individual of that authority until the individual has been informed that his or her license was denied.

(8) A written instrument conferring authority to enforce the laws of this state upon an individual to whom this section applies must include the following:

(a) A requirement that the employing Michigan tribal law enforcement agency report to the commission all personnel transactions affecting employment status in a manner prescribed in rules promulgated by the commission.

(b) A requirement that the employing Michigan tribal law enforcement agency report to the commission concerning any action it takes that removes the authority conferred by the written instrument conferring authority upon the individual to enforce the laws of this state or that restores the individual's authority to that conferred by the written instrument, in a manner prescribed in rules promulgated by the commission.

(c) A requirement that the employing Michigan tribal law enforcement agency maintain an employment history record.

(d) A requirement that the employing Michigan tribal law enforcement agency collect, verify, and maintain documentation establishing that the individual complies with the applicable licensing standards.

(9) A written instrument conferring authority to enforce the laws of this state upon an individual to whom this section applies must include a requirement that the employing Michigan tribal law enforcement agency report the following regarding an individual licensed under this section:

(a) Criminal charges for offenses for which that individual's license may be revoked as described in this section, upon being informed of such charges, in a manner prescribed in rules promulgated by the commission.

(b) The imposition of a personal protection order against that individual after a judicial hearing under section 2950 or 2950a of the revised judicature act of 1961, 1961 PA 236, MCL 600.2950 and 600.2950a, or under the

laws of any other jurisdiction, upon being informed of the imposition of such an order, in a manner prescribed in rules promulgated by the commission.

(10) A license issued under this section is rendered inactive, and may be reactivated, as follows:

(a) A license is rendered inactive if 1 or more of the following occur:

(i) An individual, having been employed as a law enforcement officer in aggregate for less than 2,080 hours, is thereafter continuously not employed as a law enforcement officer for less than 1 year.

(ii) An individual, having been employed as a law enforcement officer in aggregate for less than 2,080 hours, is thereafter continuously subjected to a removal of the authority conferred by the written instrument authorizing the individual to enforce the laws of this state for less than 1 year.

(iii) An individual, having been employed as a law enforcement officer in aggregate for 2,080 hours or longer, is thereafter continuously not employed as a law enforcement officer for less than 2 years.

(iv) An individual, having been employed as a law enforcement officer in aggregate for 2,080 hours or longer, is continuously subjected to a removal of the authority conferred by the written instrument authorizing the individual to enforce the laws of this state for less than 2 years.

(b) A law enforcement agency or other governmental agency conferring authority to enforce the laws of this state upon an individual to whom this section applies may reactivate a license rendered inactive by complying with the licensure procedures described in subsection (3), excluding verification of and attestation to compliance with the licensing standards described in subsection (2)(a) to (g).

(c) A license that has been reactivated under this section is valid for all purposes described in this act.

(11) A license issued under this section is rendered lapsed, without barring further licensure under this act, if 1 or more of the following occur:

(a) An individual, having been employed as a law enforcement officer in aggregate for less than 2,080 hours, is thereafter continuously not employed as a law enforcement officer for 1 year.

(b) An individual, having been employed as a law enforcement officer in aggregate for less than 2,080 hours, is thereafter continuously subjected to a removal of the authority conferred by the written instrument authorizing the individual to enforce the laws of this state for 1 year.

(c) An individual, having been employed as a law enforcement officer in aggregate for 2,080 hours or longer, is thereafter continuously not employed as a law enforcement officer for 2 years.

(d) An individual, having been employed as a law enforcement officer in aggregate for 2,080 hours or longer, is continuously subjected to a removal of the authority conferred by the written instrument authorizing the individual to enforce the laws of this state for 2 years.

(12) The commission shall revoke a license granted under this section for any of the following circumstances and shall promulgate rules governing these revocations under this section:

(a) The individual obtained the license by making a materially false oral or written statement or committing fraud in an affidavit, disclosure, or application to a law enforcement training academy, the commission, or a law enforcement agency at any stage of recruitment, selection, appointment, enrollment, training, or licensure application.

(b) The individual obtained the license because another individual made a materially false oral or written statement or committed fraud in an affidavit, disclosure, or application to a law enforcement training academy, the commission, or a law enforcement agency at any stage of recruitment, selection, appointment, enrollment, training, or licensure application.

(c) The individual has been subjected to an adjudication of guilt for a violation or attempted violation of a penal law of this state or another jurisdiction that is punishable by imprisonment for more than 1 year.

(d) The individual has been subjected to an adjudication of guilt for violation or attempted violation of 1 or more of the following penal laws of this state or laws of another jurisdiction substantially corresponding to the penal laws of this state:

(i) Section 625(1) or (8) of the Michigan vehicle code, 1949 PA 300, MCL 257.625, if the individual has a prior conviction, as that term is defined in section 625(25)(b) of the Michigan vehicle code, 1949 PA 300, MCL 257.625, that occurred within 7 years of the adjudication as described in section 625(9)(b) of the Michigan vehicle code, 1949 PA 300, MCL 257.625.

(ii) Section 7403(2)(c) or 7404(2)(a), (b), or (c) of the public health code, 1978 PA 368, MCL 333.7403 and 333.7404.

(iii) Section 81(4) or 81a or a misdemeanor violation of section 411h of the Michigan penal code, 1931 PA 328, MCL 750.81, 750.81a, and 750.411h.

(13) The following procedures and requirements apply to license revocation under this section:

(a) The commission shall initiate license revocation proceedings, including, but not limited to, the issuance of an order of summary suspension and notice of intent to revoke, upon obtaining notice of facts warranting license revocation.

(b) A hearing for license revocation must be conducted as a contested case under the administrative procedures act of 1969, 1969 PA 306, MCL 24.201 to 24.328.

(c) In lieu of participating in a contested case, an individual may voluntarily and permanently relinquish his or her

law enforcement officer license by executing before a notary public an affidavit of license relinquishment prescribed by the commission.

(d) The commission need not delay or abate license revocation proceedings based on an adjudication of guilt if an appeal is taken from the adjudication of guilt.

(e) If the commission issues a final decision or order to revoke a license, that decision or order is subject to judicial review as provided in the administrative procedures act of 1969, 1969 PA 306, MCL 24.201 to 24.328. A summary suspension described in this section is not a final decision or order for purposes of judicial review.

(14) An individual licensed under this section shall not exercise the law enforcement authority described in a written instrument conferring authority upon the individual to enforce the laws of this state if any of the following occur:

(a) The individual's license is rendered void by a court order or other operation of law.

(b) The individual's license is revoked.

(c) The individual's license is rendered inactive.

(d) The individual's license is rendered lapsed.

History: Add. 1998, Act 237, Imd. Eff. July 3, 1998 ;-- Am. 2016, Act 289, Eff. Jan. 2, 2017 ;-- Am. 2017, Act 198, Imd. Eff. Dec. 15, 2017 ;-- Am. 2018, Act 552, Eff. Mar. 28, 2019

Compiler's Notes: For transfer of statutory authority, powers, duties, functions, and responsibilities of the Michigan justice training commission, the Michigan justice training fund, the commission on law enforcement standards, and the law enforcement officers training fund to the new Michigan commission on law enforcement standards by type III transfer, see E.R.O. No. 2001-2, compiled at MCL 28.621 of the Michigan compiled laws.

28.609c Individuals employed as fire arson investigators; fingerprinting; licensing requirements and procedures; rules; licensure process; granting or denying license; duties of chief of police administering oath of office; report of certain information; lapsed or revoked license; prohibited authority.

Sec. 9c.

(1) This section applies only to individuals who are employed as fire arson investigators from fire departments within villages, cities, townships, or counties in this state, who are sworn and fully empowered by the chiefs of police of those villages, cities, townships, or counties. Conferring authority to enforce the laws of this state to law enforcement officers to whom this section applies is subject to the licensing requirements and procedures of this section and section 9e. 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 prior basic law enforcement training and experience program for purposes of licensure under this section shall submit to fingerprinting as provided in section 11(3).

(2) The commission shall promulgate rules governing licensing standards and procedures, pertaining to the following:

(a) Subject to section 9e, training requirements that may be met by completing either of the following:

(i) Preenrollment requirements, courses of study, attendance requirements, and instructional hours at an agency basic law enforcement training academy, a preservice college basic law enforcement training academy, or a regional basic law enforcement training academy.

(ii) The recognition of prior basic law enforcement training and experience program for granting a waiver from the licensing standard specified in subparagraph (i).

(b) Proficiency on a licensing examination administered after compliance with the licensing standard specified in subdivision (a).

(c) Physical ability.

(d) Psychological fitness.

(e) Education.

(f) Reading and writing proficiency.

(g) Minimum age.

(h) Whether or not a valid operator's or chauffeur's license is required for licensure.

(i) Character fitness, as determined by a background investigation supported by a written authorization and release executed by the individual for whom licensure is sought.

(j) Whether or not United States citizenship is required for licensure.

(k) Employment as a fire arson investigator from a fire department within a village, city, township, or county in this state, who is sworn and fully empowered by the chief of police of that village, city, township, or county.

(l) The form and manner for execution of a written oath of office by the chief of police of a village, city,

township, or county law enforcement agency, and the content of the written oath conferring authority to enforce the laws of this state.

(m) The ability to be licensed and employed as a law enforcement officer under this section, without a restriction otherwise imposed by law.

(3) The licensure process under this section must follow the following procedures:

(a) Before executing the oath of office, the chief of police shall verify that the individual to whom the oath is to be administered complies with the licensing standards.

(b) The chief of police shall execute an oath of office authorizing the individual to enforce the laws of this state.

(c) Not more than 10 calendar days after executing the oath of office, the chief of police shall attest in writing to the commission that the individual to whom the oath was administered satisfies the licensing standards by submitting an executed affidavit and a copy of the executed oath of office.

(4) If, upon reviewing the executed affidavit and executed oath of office, the commission determines that the individual complies with the licensing standards, the commission shall grant the individual a license.

(5) If, upon reviewing the executed affidavit and executed oath of office, the commission determines that the individual does not comply with the licensing standards, the commission may do any of the following:

(a) Supervise the remediation of errors or omissions in the affidavit and oath of office.

(b) Supervise the remediation of errors or omissions in the screening, procedures, examinations, testing, and other means used to verify compliance with the licensing standards.

(c) Supervise additional screening, procedures, examinations, testing, and other means used to determine compliance with the licensing standards.

(d) Deny the issuance of a license and inform the chief of police.

(6) Upon being informed that the commission has denied issuance of a license, the chief of police shall promptly inform the individual whose licensure was denied.

(7) An individual denied a license under this section shall not exercise the law enforcement authority described in the oath of office. This subsection does not divest the individual of that authority until the individual has been informed that his or her license was denied.

(8) A chief of police who has administered an oath of office to an individual under this section shall do all of the following, with respect to that individual:

(a) Report to the commission all personnel transactions affecting employment status in a manner prescribed in rules promulgated by the commission.

(b) Report to the commission concerning any action taken by the chief of police that removes the authority conferred by the oath of office, or that restores the individual's authority to that conferred by the oath of office, in a manner prescribed in rules promulgated by the commission.

(c) Maintain an employment history record.

(d) Collect, verify, and maintain documentation establishing that the individual complies with the applicable licensing standards.

(9) An individual licensed under this section shall report all of the following to the commission:

(a) Criminal charges for offenses for which that individual's license may be revoked as described in this section, upon being informed of such charges, in a manner prescribed in rules promulgated by the commission.

(b) Imposition of a personal protection order against that individual after a judicial hearing under section 2950 or 2950a of the revised judicature act of 1961, 1961 PA 236, MCL 600.2950 and 600.2950a, or under the laws of any other jurisdiction, upon being informed of the imposition of such an order, in a manner prescribed in rules promulgated by the commission.

(10) A license issued under this section is rendered lapsed, without barring further licensure under this act, if 1 or both of the following occur:

(a) The individual is no longer employed as a fire arson investigator from a fire department within a village, city, township, or county in this state, who is sworn and fully empowered by the chief of police of that village, city, township, or county, rendering the license lapsed.

(b) The individual is subjected to a removal of the authority conferred by the oath of office, rendering the license lapsed.

(11) The commission shall revoke a license granted under this section for any of the following circumstances and shall promulgate rules governing these revocations under this subsection:

(a) The individual obtained the license by making a materially false oral or written statement or committing fraud in an affidavit, disclosure, or application to a law enforcement training academy, the commission, or a law enforcement agency at any stage of recruitment, selection, appointment, enrollment, training, or licensure application.

(b) The individual obtained the license because another individual made a materially false oral or written statement or committed fraud in an affidavit, disclosure, or application to a law enforcement training academy, the commission, or a law enforcement agency at any stage of recruitment, selection, appointment, enrollment, training, or licensure application.

(c) The individual has been subjected to an adjudication of guilt for a violation or attempted violation of a penal

law of this state or another jurisdiction that is punishable by imprisonment for more than 1 year.

(d) The individual has been subjected to an adjudication of guilt for violation or attempted violation of 1 or more of the following penal laws of this state or laws of another jurisdiction substantially corresponding to the penal laws of this state:

(i) Section 625(1) or (8) of the Michigan vehicle code, 1949 PA 300, MCL 257.625, if the individual has a prior conviction, as that term is defined in section 625(25)(b) of the Michigan vehicle code, 1949 PA 300, MCL 257.625, that occurred within 7 years of the adjudication as described in section 625(9)(b) of the Michigan vehicle code, 1949 PA 300, MCL 257.625.

(ii) Section 7403(2)(c) or 7404(2)(a), (b), or (c) of the public health code, 1978 PA 368, MCL 333.7403 and 333.7404.

(iii) Section 81(4) or 81a or a misdemeanor violation of section 411h of the Michigan penal code, 1931 PA 328, MCL 750.81, 750.81a, and 750.411h.

(12) The following procedures and requirements apply to license revocation under this section:

(a) The commission shall initiate license revocation proceedings, including, but not limited to, issuance of an order of summary suspension and notice of intent to revoke, upon obtaining notice of facts warranting license revocation.

(b) A hearing for license revocation must be conducted as a contested case under the administrative procedures act of 1969, 1969 PA 306, MCL 24.201 to 24.328.

(c) In lieu of participating in a contested case, an individual may voluntarily and permanently relinquish his or her law enforcement officer license by executing before a notary public an affidavit of license relinquishment prescribed by the commission.

(d) The commission need not delay or abate license revocation proceedings based on an adjudication of guilt if an appeal is taken from the adjudication of guilt.

(e) If the commission issues a final decision or order to revoke a license, that decision or order is subject to judicial review as provided in the administrative procedures act of 1969, 1969 PA 306, MCL 24.201 to 24.328. A summary suspension described in this section is not a final decision or order for purposes of judicial review.

(13) An individual licensed under this section shall not exercise the law enforcement authority described in the oath of office if any of the following occur:

(a) The individual's license is rendered void by a court order or other operation of law.

(b) The individual's license is revoked.

(c) The individual's license is rendered lapsed.

History: Add. 1998, Act 237, Imd. Eff. July 3, 1998 ;-- Am. 2016, Act 289, Eff. Jan. 2, 2017 ;-- Am. 2017, Act 198, Imd. Eff. Dec. 15, 2017 ;-- Am. 2018, Act 552, Eff. Mar. 28, 2019

Compiler's Notes: For transfer of statutory authority, powers, duties, functions, and responsibilities of the Michigan justice training commission, the Michigan justice training fund, the commission on law enforcement standards, and the law enforcement officers training fund to the new Michigan commission on law enforcement standards by type III transfer, see E.R.O. No. 2001-2, compiled at MCL 28.621 of the Michigan compiled laws.

28.609d Individuals employed as private college security officers; fingerprinting; licensing requirements and procedures; rules; licensure process; granting or denying license; duties of chief of police or county sheriff administering oath of office; duties of private college or university; report of certain information; lapsed or revoked license; prohibited authority.

Sec. 9d.

(1) This section applies only to individuals who meet all of the following conditions:

(a) Are employed as private college security officers under section 37 of the private security business and security alarm act, 1968 PA 330, MCL 338.1087.

(b) Seek licensure under this act.

(c) Are sworn and fully empowered by a chief of police of a village, city, or township law enforcement agency, or are deputized by a county sheriff as a deputy sheriff, excluding deputation as a special deputy.

(2) The authority to enforce the laws of this state of private college security officers to whom this section applies is subject to the licensing requirements and procedures of this section and section 9e. 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 prior basic law enforcement training and experience program for purposes of licensure under this section shall submit to fingerprinting as provided in section 11(3).

(3) The commission shall promulgate rules governing licensing standards and procedures, pertaining to the

following:

(a) Subject to section 9e, training requirements that may be met by completing either of the following:

(i) Preenrollment requirements, courses of study, attendance requirements, and instructional hours at an agency basic law enforcement training academy, a preservice college basic law enforcement training academy, or a regional basic law enforcement training academy.

(ii) The recognition of prior basic law enforcement training and experience program for granting a waiver from the licensing standard specified in subparagraph (i).

(b) Proficiency on a licensing examination administered after compliance with the licensing standard specified in subdivision (a).

(c) Physical ability.

(d) Psychological fitness.

(e) Education.

(f) Reading and writing proficiency.

(g) Minimum age.

(h) Whether or not a valid operator's or chauffeur's license is required for licensure.

(i) Character fitness, as determined by a background investigation supported by a written authorization and release executed by the individual for whom licensure is sought.

(j) Whether or not United States citizenship is required for licensure.

(k) Employment as a private college security officer as defined in section 37 of the private security business and security alarm act, 1968 PA 330, MCL 338.1087, who is sworn and fully empowered by the chief of police of a village, city, or township law enforcement agency, or deputized by a county sheriff as a deputy sheriff, excluding deputation as a special deputy.

(l) The form and manner for execution of a written oath of office by the chief of police of a village, city, or township law enforcement agency, or by a county sheriff, and the content of the written oath conferring the authority to enforce the general criminal laws of this state.

(m) The ability to be licensed and employed as a law enforcement officer under this section, without a restriction otherwise imposed by law.

(4) The licensure process under this section must follow the following procedures:

(a) Before executing the oath of office, the chief of police of a village, city, or township law enforcement agency or the county sheriff shall verify that the private college security officer to whom the oath is administered complies with the licensing standards.

(b) The chief of police of a village, city, or township law enforcement agency or the county sheriff shall execute an oath of office authorizing the private college security officer to enforce the general criminal laws of this state.

(c) Not more than 10 calendar days after executing the oath of office, the chief of police of a village, city, or township law enforcement agency or the county sheriff shall attest in writing to the commission that the private college security officer to whom the oath was administered satisfies the licensing standards by submitting an executed affidavit and a copy of the executed oath of office.

(5) If upon reviewing the executed affidavit and oath of office the commission determines that the private college security officer complies with the licensing standards, the commission shall grant the private college security officer a license.

(6) If upon reviewing the executed affidavit and oath of office the commission determines that the private college security officer does not comply with the licensing standards, the commission may do any of the following:

(a) Supervise remediation of errors or omissions in the affidavit or oath of office.

(b) Supervise the remediation of errors or omissions in the screening, procedures, examinations, testing, and other means used to verify compliance with the licensing standards.

(c) Supervise additional screening, procedures, examinations, testing, and other means used to determine compliance with the licensing standards.

(d) Deny the issuance of a license and inform the chief of police of a village, city, or township law enforcement agency or the county sheriff of the denial.

(7) Upon being informed that the commission has denied issuance of a license, the chief of police of a village, city, or township law enforcement agency or the county sheriff shall promptly inform the private college security officer seeking licensure that he or she has been denied issuance of a license under this section.

(8) A private college security officer denied a license under this section may not exercise the law enforcement authority described in the oath of office. This subsection does not divest the private college security officer of that authority until the private college security officer has been informed that his or her licensure was denied.

(9) A chief of police of a village, city, or township law enforcement agency or a county sheriff who has administered an oath of office to a private college security officer under this section shall, with respect to that private college security officer, do all of the following:

(a) Report to the commission concerning all personnel transactions affecting employment status, in a manner prescribed in rules promulgated by the commission.

(b) Report to the commission concerning any action taken by the chief of police of a village, city, or township

law enforcement agency or the county sheriff that removes the authority conferred by the oath of office or that restores the private college security officer's authority conferred by the oath of office, in a manner prescribed in rules promulgated by the commission.

(c) Maintain an employment history record.

(d) Collect, verify, and maintain documentation establishing that the private college security officer complies with the applicable licensing standards.

(10) If a private college or university appoints an individual as a private college security officer under section 37 of the private security business and security alarm act, 1968 PA 330, MCL 338.1087, and the private college security officer is licensed under this section, the private college or university, with respect to the private college security officer, shall do all of the following:

(a) Report to the commission all personnel transactions affecting employment status in a manner prescribed in rules promulgated by the commission.

(b) Report to the chief of police of a village, city, or township law enforcement agency or the county sheriff who administered the oath of office to that private college security officer all personnel transactions affecting employment status, in a manner prescribed in rules promulgated by the commission.

(11) A private college security officer licensed under this section shall report all of the following to the commission:

(a) Criminal charges for offenses for which the private college security officer's license may be revoked as described in this section upon being informed of such charges and in a manner prescribed in rules promulgated by the commission.

(b) The imposition of a personal protection order against the private college security officer after a judicial hearing under section 2950 or 2950a of the revised judicature act of 1961, 1961 PA 236, MCL 600.2950 and 600.2950a, or under the law of any other jurisdiction, upon being informed of the imposition of such an order, in a manner prescribed in rules promulgated by the commission.

(12) A license granted under this section is rendered lapsed, without barring further licensure under this act, if 1 or both of the following occur:

(a) The private college security officer is no longer employed as a private college security officer appointed under section 37 of the private security business and security alarm act, 1968 PA 330, MCL 338.1087, who is sworn and fully empowered by the chief of police of a village, city, or township law enforcement agency, or deputized by a county sheriff as a deputy sheriff, excluding deputation as a special deputy, rendering the license lapsed.

(b) The private college security officer is subjected to a removal of the authority conferred by the oath of office, rendering the license lapsed.

(13) The commission shall revoke a license granted under this section for any of the following and shall promulgate rules governing these revocations:

(a) The private college security officer obtained the license by making a materially false oral or written statement or committing fraud in the affidavit, disclosure, or application to a law enforcement training academy, the commission, or a law enforcement agency at any stage of recruitment, selection, appointment, enrollment, training, or licensure application.

(b) The private college security officer obtained the license because another person made a materially false oral or written statement or committed fraud in the affidavit, disclosure, or application to a law enforcement training academy, the commission, or a law enforcement agency at any stage of recruitment, selection, appointment, enrollment, training, or licensure application.

(c) The private college security officer has been subjected to an adjudication of guilt for a violation or attempted violation of a penal law of this state or another jurisdiction that is punishable by imprisonment for more than 1 year.

(d) The private college security officer has been subjected to an adjudication of guilt for a violation or attempted violation of 1 or more of the following penal laws of this state or another jurisdiction substantially corresponding to the penal laws of this state:

(i) Section 625(1) or (8) of the Michigan vehicle code, 1949 PA 300, MCL 257.625, if the individual has a prior conviction, as that term is defined in section 625(25)(b) of the Michigan vehicle code, 1949 PA 300, MCL 257.625, that occurred within 7 years of the adjudication as described in section 625(9)(b) of the Michigan vehicle code, 1949 PA 300, MCL 257.625.

(ii) Section 7403(2)(c) or 7404(2)(a), (b), or (c) of the public health code, 1978 PA 368, MCL 333.7403 and 333.7404.

(iii) Section 81(4) or 81a or a misdemeanor violation of section 411h of the Michigan penal code, 1931 PA 328, MCL 750.81, 750.81a, and 750.411h.

(14) The following procedures and requirements apply to license revocation under this section:

(a) The commission shall initiate license revocation proceedings, including, but not limited to, the issuance of an order for summary suspension and notice of intent to revoke a license upon obtaining notice of facts warranting license revocation.

(b) A hearing for license revocation must be conducted as a contested case under the administrative procedures

act of 1969, 1969 PA 306, MCL 24.201 to 24.328.

(c) In lieu of participating in a contested case, a private security college officer may voluntarily and permanently relinquish his or her law enforcement officer license under this section by executing before a notary public an affidavit of license relinquishment as prescribed by the commission.

(d) The commission need not delay or abate license revocation proceedings based on an adjudication of guilt if an appeal is taken from the adjudication of guilt.

(e) If the commission issues a final decision or order to revoke a license, that decision or order is subject to judicial review as provided in the administrative procedures act of 1969, 1969 PA 306, MCL 24.201 to 24.328. A summary suspension described in this section is not a final decision or order for purposes of judicial review.

(15) A private college security officer licensed under this section shall not exercise the law enforcement authority described in the oath of office he or she executed if any of the following occur:

(a) The private college security officer's license is rendered void by a court order or other operation of law.

(b) The private college security officer's license is revoked.

(c) The private college security officer's license is rendered lapsed.

History: Add. 1998, Act 237, Imd. Eff. July 3, 1998 ;-- Am. 2016, Act 289, Eff. Jan. 2, 2017 ;-- Am. 2017, Act 198, Imd. Eff. Dec. 15, 2017 ;-- Am. 2018, Act 552, Eff. Mar. 28, 2019

Compiler's Notes: For transfer of statutory authority, powers, duties, functions, and responsibilities of the Michigan justice training commission, the Michigan justice training fund, the commission on law enforcement standards, and the law enforcement officers training fund to the new Michigan commission on law enforcement standards by type III transfer, see E.R.O. No. 2001-2, compiled at MCL 28.621 of the Michigan compiled laws.

28.609e Active violence response training; standards; rules; requirement for licensure.

Sec. 9e.

(1) Beginning January 1, 2020, an individual seeking to become licensed under section 9, 9b, 9c, or 9d shall complete active violence response training that emphasizes coordinated tactical response to rapidly developing incidents in which intentional physical injury or death to a specific population occurs through the use of conventional or unconventional weapons and tactics.

(2) The commission shall promulgate rules establishing the minimum standards for the active violence response training required under subsection (1).

(3) Beginning January 1, 2020, an individual who is licensed under section 9, 9b, 9c, or 9d shall complete the active violence response training described under subsection (1).

History: Add. 2018, Act 552, Eff. Mar. 28, 2019

28.610 Investigation of alleged violations.

Sec. 10.

(1) The commission may investigate alleged violations of this act or rules promulgated under this act.

(2) In conducting an investigation, the commission may hold hearings, administer oaths, issue subpoenas, and order testimony to be taken at a hearing or by deposition. A hearing held under this section shall be conducted in accordance with chapter 4 of the administrative procedures act of 1969, 1969 PA 306, MCL 24.271 to 24.287. A final decision or order issued by the commission is subject to judicial review as provided in chapter 6 of the administrative procedures act of 1969, 1969 PA 306, MCL 24.301 to 24.306. A petition for judicial review of a final decision or order of the commission shall be adjudicated only in the court of claims.

(3) The commission may issue a subpoena to do either of the following:

(a) Compel the attendance of a witness to testify at a hearing or deposition and give testimony.

(b) Produce books, papers, documents, or other items.

(4) If a subpoena issued by the commission is not obeyed, the commission may petition the court of claims to require the attendance of a witness or the production of books, papers, documents, or other items. The court of claims may issue an order requiring an individual to appear and give testimony or produce books, papers,

documents, or other items. Failure to obey an order of the court of claims may be punished by the court as a contempt of court.

(5) The commission has standing to commence an action in the court of claims to compel compliance with this act or 1982 PA 302, MCL 18.421 to 18.429, or an administrative rule promulgated under this act or 1982 PA 302, MCL 18.421 to 18.429.

History: 1965, Act 203, Eff. Jan. 1, 1966 ;-- Am. 1998, Act 237, Imd. Eff. July 3, 1998 ;-- Am. 2010, Act 67, Imd. Eff. May 13, 2010 ;-- Am. 2016, Act 289, Eff. Jan. 2, 2017

Compiler's Notes: For transfer of statutory authority, powers, duties, functions, and responsibilities of the Michigan justice training commission, the Michigan justice training fund, the commission on law enforcement standards, and the law enforcement officers training fund to the new Michigan commission on law enforcement standards by type III transfer, see E.R.O. No. 2001-2, compiled at MCL 28.621 of the Michigan compiled laws.

28.611 Powers of commission; rules; fingerprints; criminal history record information check; law enforcement officers training fund.

Sec. 11.

(1) The commission may do 1 or more of the following:

(a) Enter into agreements with colleges, universities, governmental agencies, and private entities to carry out the intent of this act.

(b) Issue certificates of approval to agency basic law enforcement training academies, preservice college basic law enforcement training academies, and regional basic law enforcement training academies.

(c) Authorize issuance of certificates of graduation or diplomas by agency basic law enforcement training academies, preservice college basic law enforcement training academies, and regional basic law enforcement training academies to students who have satisfactorily completed minimum courses of study.

(d) Cooperate with state, federal, and local agencies to approve programs of in-service instruction and training of law enforcement officers of this state and of cities, counties, townships, and villages.

(e) Make recommendations to the legislature on matters pertaining to qualification and training of law enforcement officers.

(f) Require a licensing examination.

(g) Establish a recognition of prior basic law enforcement training and experience program.

(h) Establish and charge a fee to recover the cost of screening, enrolling, evaluating, and testing individuals who are not employed by a law enforcement agency, which must be deposited in the law enforcement officers training fund created in this section.

(i) Establish and charge a fee to recover the cost of issuing licenses to persons licensed under this act, which must be deposited in the law enforcement officers training fund created in this section.

(2) The commission may promulgate rules with respect to any of the following:

(a) In-service training programs and minimum courses of study and attendance requirements for licensed law enforcement officers.

(b) The establishment and approval of agency basic law enforcement training academies, preservice college basic law enforcement training academies, and regional basic law enforcement training academies.

(c) The minimum qualifications for instructors for approved agency basic law enforcement training academies, preservice college basic law enforcement training academies, and regional basic law enforcement training academies.

(d) The minimum facilities and equipment for agency basic law enforcement training academies, preservice college basic law enforcement training academies, and regional basic law enforcement training academies.

(e) Minimum standards and procedures for reserve officers.

(3) The commission shall 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 prior basic law enforcement training and experience program to submit his or her fingerprints to the department of state police for the purpose of conducting a criminal history record information check. The department of state police may charge a fee for conducting a criminal history record information check. The individual shall submit his or her fingerprints to the department of state police in a manner prescribed by the department of state police.

(4) The department of state police shall conduct a criminal history record information check on each individual described under subsection (3) through its own records and through the Federal Bureau of Investigation. After the completion of each criminal history record information check, the department of state police shall provide the criminal history record information to the commission.

(5) The department of state police shall store and retain fingerprints submitted under this section in an automated fingerprint identification system that provides for an automatic notification if subsequent criminal history record information matches fingerprints previously submitted under this section. Upon receiving a notification under this subsection, the department of state police shall forward that notification to the commission.

(6) The department of state police shall forward the fingerprints submitted under this section to the Federal Bureau of Investigation to be retained in the Federal Bureau of Investigation's next generation identification system and integrated automated fingerprint identification system that provides for automatic notification if subsequent criminal history record information matches fingerprints previously submitted to the Federal Bureau of Investigation under this subsection. Upon receiving a notification from the Federal Bureau of Investigation under this subsection, the department of state police shall forward that notification to the commission. The fingerprints retained under this subsection may be searched by using future submissions to those systems, including, but not limited to, latent fingerprint searches, with appropriate responses sent to the submitting and subscribing entities. This subsection does not apply unless the department of state police is capable of participating in the Federal Bureau of Investigation's next generation identification system and integrated automated fingerprint identification system.

(7) The law enforcement officers training fund is created within the state treasury.

(8) The state treasurer may receive money or other assets from any source for deposit into the fund. The state treasurer shall direct investment of the fund. The state treasurer shall credit to the fund interest and earnings from fund investments.

(9) Money in the fund at the close of the fiscal year shall remain in the fund, shall not lapse into the general fund, and may be used by the commission, upon appropriation, in future fiscal years as prescribed in this section.

(10) The commission shall be the administrator of the fund for auditing purposes.

(11) The commission shall expend money from the fund, upon appropriation, to carry out its responsibilities under this act.

History: 1965, Act 203, Eff. Jan. 1, 1966 ;-- Am. 1976, Act 422, Imd. Eff. Jan. 11, 1977 ;-- Am. 1985, Act 15, Imd. Eff. May 15, 1985 ;-- Am. 1998, Act 237, Imd. Eff. July 3, 1998 ;-- Am. 2016, Act 289, Eff. Jan. 2, 2017 ;-- Am. 2017, Act 198, Imd. Eff. Dec. 15, 2017
Compiler's Notes: For transfer of statutory authority, powers, duties, functions, and responsibilities of the Michigan justice training commission, the Michigan justice training fund, the commission on law enforcement standards, and the law enforcement officers training fund to the new Michigan commission on law enforcement standards by type III transfer, see E.R.O. No. 2001-2, compiled at MCL 28.621 of the Michigan compiled laws.
Admin Rule: R 28.4301 et seq. and R 28.4351 et seq. of the Michigan Administrative Code.

28.612 Executive director; appointment; functions and duties; compensation.

Sec. 12.

The commission shall appoint an executive director of the commission. The executive director shall be an employee of the commission and shall hold office at the pleasure of the commission. The executive director shall perform the functions and duties that are assigned to him or her by the commission. The executive director shall receive compensation and reimbursement for expenses from appropriations.

History: 1965, Act 203, Eff. Jan. 1, 1966 ;-- Am. 1998, Act 237, Imd. Eff. July 3, 1998 ;-- Am. 2016, Act 289, Eff. Jan. 2, 2017

28.613 Inquiry as to compliance with licensing standards; response.

Sec. 13.

(1) An individual law enforcement officer or law enforcement organization to whom an inquiry is made concerning an individual law enforcement officer's or law enforcement organization's compliance with the licensing standards established in this act shall respond to the inquiry within 45 calendar days.

(2) An individual law enforcement officer or law enforcement organization responding to an inquiry concerning an individual law enforcement officer's or law enforcement organization's compliance with the licensing standards established in this act may charge the inquiring party a reasonable fee to recover the actual cost of producing

information, documents, and other items requested.

History: 1965, Act 203, Eff. Jan. 1, 1966 ;-- Am. 1976, Act 422, Imd. Eff. Jan. 11, 1977 ;-- Am. 2016, Act 289, Eff. Jan. 2, 2017
Compiler's Notes: For transfer of statutory authority, powers, duties, functions, and responsibilities of the Michigan justice training commission, the Michigan justice training fund, the commission on law enforcement standards, and the law enforcement officers training fund to the new Michigan commission on law enforcement standards by type III transfer, see E.R.O. No. 2001-2, compiled at MCL 28.621 of the Michigan compiled laws.

28.614 Secondary road patrol and training fund; use; limitation; reimbursement.

Sec. 14.

(1) Except as provided in subsection (2), the commission may use money granted to it by the department of state police from the secondary road patrol and training fund created in section 629e of the Michigan vehicle code, 1949 PA 300, MCL 257.629e, for the following:

(a) To reimburse law enforcement agencies for the reasonable costs the agencies incur in providing education to their employees who are enrolled in law enforcement training academies for the purpose of being employed by the agencies as law enforcement officers licensed under this act.

(b) For fiscal years 2016 and 2017 only, the commission may pay the reasonable expenses of performing its statutory functions authorized or required under this act.

(2) The commission shall not be granted and use, within a single fiscal year, more than 5.7% of the secondary road patrol and training fund created in section 629e of the Michigan vehicle code, 1949 PA 300, MCL 257.629e, for any purpose.

(3) Law enforcement agencies seeking reimbursement under subsection (1) shall apply using procedures and forms established by the commission.

History: 1965, Act 203, Eff. Jan. 1, 1966 ;-- Am. 1976, Act 422, Imd. Eff. Jan. 11, 1977 ;-- Am. 1998, Act 237, Imd. Eff. July 3, 1998 ;-- Am. 2016, Act 289, Eff. Jan. 2, 2017
Compiler's Notes: For transfer of statutory authority, powers, duties, functions, and responsibilities of the Michigan justice training commission, the Michigan justice training fund, the commission on law enforcement standards, and the law enforcement officers training fund to the new Michigan commission on law enforcement standards by type III transfer, see E.R.O. No. 2001-2, compiled at MCL 28.621 of the Michigan compiled laws.

28.615 Application for reimbursement; contents.

Sec. 15.

A training agency, city, county, township, or village or state agency that desires to receive reimbursement pursuant to section 14 shall apply to the commission for the reimbursement. The application shall contain information requested by the commission.

History: 1965, Act 203, Eff. Jan. 1, 1966 ;-- Am. 1976, Act 422, Imd. Eff. Jan. 11, 1977 ;-- Am. 1998, Act 237, Imd. Eff. July 3, 1998
Compiler's Notes: For transfer of statutory authority, powers, duties, functions, and responsibilities of the Michigan justice training commission, the Michigan justice training fund, the commission on law enforcement standards, and the law enforcement officers training fund to the new Michigan commission on law enforcement standards by type III transfer, see E.R.O. No. 2001-2, compiled at MCL 28.621 of the Michigan compiled laws.

28.616 Repealed. 2016, Act 289, Eff. Jan. 2, 2017.

Compiler's Notes: The repealed section pertained to effective date of act.

EXECUTIVE REORGANIZATION ORDER

E.R.O. No. 2020-2

28.620 Membership addition to the Michigan commission on law enforcement standards.

Effective policing that promotes safety, security, and justice for all Michiganders requires participation in setting policing standards from a broad range of individuals, including Michigan residents from outside the law enforcement community.

Adding members to the Michigan Commission on Law Enforcement Standards, which develops the licensing and training standards for law enforcement officers in this state, will bring a more diverse range of voices to this important task and promote democratic accountability.

Section 1 of article 5 of the Michigan Constitution of 1963 vests the executive power of the State of Michigan in the governor.

Section 2 of article 5 of the Michigan Constitution of 1963 empowers the governor to make changes in the organization of the executive branch of state government or in the assignment of functions among its units that the governor considers necessary for efficient administration.

Acting under the Michigan Constitution of 1963 and Michigan law, I order the following:

1. The Michigan Commission on Law Enforcement Standards (the Commission) created by section 3 of the Michigan Commission on Law Enforcement Standards Act (the MCOLES Act), 1965 PA 203, as amended, MCL 28.603, is expanded to include the following additional members:

(a) The director of the Michigan Department of Civil Rights, or his or her designated representative from within that department.

(b) Three residents of this state appointed by the governor with the advice and consent of the Michigan Senate.

2. A member appointed under section 1(b) of this order must not be a law enforcement officer, a Michigan tribal law enforcement officer, or be employed by or otherwise affiliated with a law enforcement agency or a law enforcement training academy.

3. Of the Commission members initially appointed under section 1(b) of this order, one must be appointed for an initial term expiring on December 31, 2021, one must be appointed for an initial term expiring on December 31, 2022, and one must be appointed for an initial term expiring on December 31, 2023. After the initial term, the members will be appointed for terms of four years. A vacancy occurring other than by expiration of a term will be filled in the same manner as the original appointment for the remainder of the unexpired term.

4. As used in this order, "law enforcement agency", "law enforcement officer", "law enforcement training academy", and "Michigan tribal law enforcement officer" mean those terms as defined in section 2 of the MCOLES Act, MCL 28.602.

5. Consistent with section 2 of article 5 of the Michigan Constitution of 1963, this order is effective on August 12, 2020 at 12:01 a.m.

History: 2020, E.R.O. No. 2020-2, Eff. Aug. 12, 2020
Compiler's Notes: Executive Reorganization Order No. 2020-2 was promulgated June 12, 2020, as Executive Order No. 2020-121, Eff.

Aug. 12, 2020.

EXECUTIVE REORGANIZATION ORDER

E.R.O. No. 2001-2

28.621 Creation of new Michigan commission on law enforcement standards within department of state police as type I agency; transfer of powers and duties of Michigan justice training commission, Michigan justice training fund, and commission on law enforcement standards and law enforcement officers training fund to the new Michigan commission on law enforcement standards by type III transfer.

WHEREAS, Article V, Section 1, of the Constitution of the state of Michigan of 1963 vests the executive power in the Governor; and

WHEREAS, Article V, Section 2, of the Constitution of the State of Michigan of 1963 empowers the Governor to make changes in the organization of the Executive Branch or in the assignment of functions among its units which he considers necessary for efficient administration; and

WHEREAS, the Michigan Justice Training Commission and the Michigan Justice Training Fund were created within the Department of Management and Budget by Act No. 302 of the Public Acts of 1982, as amended, being Section 18.421 et seq. of the Michigan Compiled Laws; and subsequently transferred to the Department of State Police by Executive Order 1993-11, being Section 18.431 of the Michigan Compiled Laws; and

WHEREAS, the Michigan Law Enforcement Officers Training Council (later renamed the Commission on Law Enforcement Standards by Act No. 237 of the Public Acts of 1998, which amended Section 28.601 et seq. of the Michigan Compiled Laws) and the Law Enforcement Officers Training Fund were created under Act No. 203 of the Public Acts of 1965, as amended, being section 28.601 et seq. of the Michigan Compiled Laws; and subsequently transferred by a Type I transfer to the Department of State Police by Act No. 407 of the Public Acts of 1965, being Section 16.257 of the Michigan Compiled Laws; and

WHEREAS, the powers, functions, duties and responsibilities assigned to the Michigan Justice Training Commission, the Michigan Justice Training Fund, the Commission on Law Enforcement Standards, and the Law Enforcement Officers Training Fund can be more effectively carried out by a new Michigan Commission on Law Enforcement Standards; and

WHEREAS, it is necessary in the interests of efficient administration and effectiveness of government to effect changes in the organization of the Executive Branch of government.

NOW, THEREFORE, I, John Engler, Governor of the State of Michigan, pursuant to the powers vested in me by the Constitution of the State of Michigan of 1963 and the laws of the State of Michigan, do hereby order the following:

I. NEW MICHIGAN COMMISSION ON LAW ENFORCEMENT STANDARDS

A. The new Michigan Commission on Law Enforcement Standards is hereby created as a Type I agency within the Department of State Police.

B. All the statutory authority, powers, duties, functions and responsibilities of the Michigan Justice Training Commission, the Michigan Justice Training Fund, the Commission on Law Enforcement Standards and the Law Enforcement Officers Training Fund including those involving rulemaking, grant awards and annual distributions and including, but not limited to, the statutory authority, powers, duties, functions and responsibilities set forth in:

1. The Commission on Law Enforcement Standards Act, Act No. 203 of the Public Acts of 1965, as amended, being Section 28.601 et seq. of the Michigan Compiled Laws;

2. The Michigan Justice Training Commission and Michigan Justice Training Fund Act, Act No. 302 of the Public Acts of 1982, as amended, being Section 18.421 et seq. of the Michigan Compiled Laws;

are hereby transferred to the new Michigan Commission on Law Enforcement Standards by a Type III transfer, as defined by Section 3 of Act No. 380 of the Public Acts of 1965, as amended, being Section 16.103 of the Michigan Compiled Laws.

C. The Michigan Commission on Law Enforcement Standards shall consist of 17 members, including all of the following:

1. The Attorney General, or his or her designee from within the Department of Attorney General.

2. The Director of the Department of State Police, or his or her designee who is a police officer within the Department of State Police.

3. The chief of a police department located in a city with a population of more than 750,000, or his or her designee who is a command officer within that department.

4. Fourteen individuals appointed by the Governor, subject to disapproval by the Michigan Senate under Section 6 of Article V of the Michigan Constitution of 1963, including all of the following:

a. Three individuals selected from a list of not less than 9 active voting members of the Michigan Association of Chiefs of Police nominated by the Michigan Association of Chiefs of Police.

b. Three individuals selected from a list of not less than 9 elected county sheriffs nominated by the Michigan Sheriffs' Association.

c. One individual selected from a list of not less than 3 prosecuting attorneys nominated by the Prosecuting Attorneys Association of Michigan.

d. One individual selected from a list of not less than 3 criminal defense attorneys nominated by the Criminal Defense Attorneys of Michigan.

e. One individual selected from a list of not less than 3 individuals nominated by the Michigan State Police Troopers Association.

f. One individual selected from a list of not less than 3 individuals nominated by the Michigan Chapter of the Fraternal Order of Police.

g. One individual selected from a list of not less than 3 individuals submitted by the Police Officers Association of Michigan.

h. One individual selected from a list of not less than 3 individuals nominated by a police association representing police officers employed by a police agency employing more than 15 percent of the police officers in this state.

i. One individual selected from a list of not less than 3 individuals nominated by the Police Officers Labor Council of Michigan.

j. One individual selected from a list of not less than 3 individuals nominated by the Michigan Association of Police.

5. The Governor may appoint any individual meeting the membership requirements of the groups or organizations listed under Section I.C.4.a through I.C.4.j if an organization required to submit a list fails to submit a complete list of qualified nominees at least 30 days prior to a vacancy created by the expiration of a term, or not less than 30 days after the effective date of any other vacancy.

6. An individual appointed under Section I.C.4.a to I.C.4.j shall serve as a Commission member only while serving as a member of the organization that nominated the individual.

7. Members of the Commission appointed or reappointed under Section I.C.4.a to I.C.4.h after December 31, 2008 shall be appointed for a term of four years.

8. Of the members of the Commission initially appointed by the Governor under Sections I.C.4.i and I.C.4.j, one member shall be appointed for a term expiring on November 1, 2009, and one member shall be appointed for a term expiring on November 1, 2010. After the initial appointments, members of the Commission appointed under Sections I.C.4.i and I.C.4.j shall be appointed for a term of four years.

9. A vacancy on the Commission occurring other than by expiration of a term shall be filled by the Governor in the same manner as the original appointment for the balance of the unexpired term.

D. The new Michigan Commission on Law Enforcement Standards, in addition to exercising the statutory authority, powers, duties, functions and responsibilities transferred to it by this order, shall focus its activities in order to accomplish the following objectives involving law enforcement organizations and officers:

1. Increase professionalism;

2. Increase the number of law enforcement organizations that offer formal in-service training and increase the number of law enforcement officers who receive formal in-service training;

3. Institute law enforcement in-service training standards applicable to all law enforcement in-service training in Michigan;

4. Implement a web-based information system that will allow the Commission to accomplish its goals and communicate with Michigan law enforcement organizations in a more efficient manner, and;

5. Ensure that grants awarded by the Commission to Michigan law enforcement organizations advance the objectives listed in subparagraphs D.1. through D.3.

II. MISCELLANEOUS

A. The Director of the Department of State Police shall provide executive direction and supervision for the implementation of all transfers of authority made under this Order.

B. The Executive Director of the new Michigan Commission on Law Enforcement Standards shall administer the assigned functions transferred by this Order in such ways as to promote efficient administration and shall make internal organizational changes as may be administratively necessary to complete the realignment of responsibilities prescribed by this Order.

C. The Director of the Department of State Police and the Executive Director of the new Michigan Commission on Law Enforcement Standards shall immediately initiate coordination to facilitate the transfer and shall develop a

memorandum of record identifying any pending settlements, issues of compliance with applicable federal and State laws and regulations, or obligations to be resolved by the Michigan Justice Training Commission, the Michigan Justice Training Fund, the Commission on Law Enforcement Standards and the Law Enforcement Officers Training Fund.

D. All records, personnel, property and unexpended balances of appropriations, allocations and other funds used, held, employed, available or to be made available to the Michigan Justice Training Commission, the Michigan Justice Training Fund, the Commission on Law Enforcement Standards and the Law Enforcement Officers Training Fund for the activities, powers, duties, functions and responsibilities transferred by this Order are hereby transferred to the new Michigan Commission on Law Enforcement Standards.

E. The State Budget Director shall determine and authorize the most efficient manner possible for handling financial transactions and records in the state's financial management system for the remainder of the fiscal year.

F. All rules, orders, contracts and agreements relating to the assigned functions lawfully adopted prior to the effective date of this Order shall continue to be effective until revised, amended or repealed.

G. Any suit, action or other proceeding lawfully commenced by, against or before any entity affected by this Order shall not abate by reason of the taking effect of this Order. Any suit, action or other proceeding may be maintained by, against or before the appropriate successor of any entity affected by this Order.

H. The invalidity of any portion of this Order shall not affect the validity of the remainder thereof.

In fulfillment of the requirement of Article V, Section 2, of the Constitution of the state of Michigan of 1963, the provisions of this Executive Order shall become effective November 1, 2001.

History: 2001, E.R.O. No. 2001-2, Eff. Nov. 1, 2001 ;-- Am. 2008, E.R.O. No. 2008-3, Eff. Dec. 28, 2008
Compiler's Notes: Section I.C. of MCL 28.261, as enacted by E.R.O. No. 2001-2, was amended by E.R.O. No. 2008-3. The text of I.C. reflects this amendment; all other text remains as originally enacted.

PUBLIC SAFETY OFFICERS BENEFIT ACT

Act 46 of 2004

AN ACT to provide compensation and other benefits to dependents of public safety officers who are killed or who are permanently and totally disabled in the line of duty; to create the public safety officers benefit fund; to prescribe the duties and responsibilities of certain state officers; and to make an appropriation.

History: 2004, Act 46, Eff. Oct. 1, 2003 ;-- Am. 2016, Act 284, Imd. Eff. Sept. 27, 2016
Compiler's Notes: Enacting section 1 of Act 46 of 2004 provides"This act is retroactive and is effective October 1, 2003."

The People of the State of Michigan enact:

28.631 Short title.

Sec. 1.

This act shall be known as the "public safety officers benefit act".

History: 2004, Act 46, Eff. Oct. 1, 2003
Compiler's Notes: Enacting section 1 of Act 46 of 2004 provides:"This act is retroactive and is effective October 1, 2003."

28.632 Definitions.

Sec. 2.

As used in this act:

(a) "Commission" means the commission on law enforcement standards created under the commission on law enforcement standards act, 1965 PA 203, MCL 28.601 to 28.616.

(b) "Dependent" means any individual who was substantially reliant for support upon the income of the deceased public safety officer.

(c) "Direct and proximate" means that the antecedent event is a substantial factor in the result.

(d) "Firefighter" means a regularly employed member of a fire department of a city, county, township, village, state university, or community college or any authority, district, board, or other entity created in whole or in part by 1 or more cities, counties, villages, or townships, or a member of the department of natural resources who is employed to fight fires. Firefighter includes a volunteer member of a fire department.

(e) "Law enforcement officer" means an individual involved in crime and juvenile delinquency control or reduction or enforcement of the criminal law. Law enforcement officer includes police, corrections, probation, parole, bailiffs, or other similar court officers.

(f) "Line of duty" means either of the following:

(i) Any action which an officer whose primary function is crime control or reduction, enforcement of the criminal law, or suppression of fires is obligated or authorized by rule, regulations, condition of employment or service, or law to perform, including those social, ceremonial, or athletic functions to which the officer is assigned, or for which the officer is compensated, by the public agency he or she serves. For other officers, line of duty means any action the officer is so obligated or authorized to perform in the course or controlling or reducing crime, enforcing the criminal law, or suppressing fires.

(ii) Any action which an officially recognized or designated public employee member of a rescue squad or ambulance crew is obligated or authorized by rule, regulation, condition of employment or service, or law to perform.

(g) "Medical benefit plan" means a plan to provide for the payment of medical, optical, or dental benefits, including, but not limited to, hospital and physician services, prescription drugs, and related benefits.

(h) "Member of a rescue squad or ambulance crew" means an emergency medical technician, a medical first responder, or a paramedic, as those terms are defined in sections 20904, 20906, and 20908 of the public health code, 1978 PA 368, MCL 333.20904, 333.20906, and 333.20908, or an officially recognized or designated employee or volunteer member of a rescue squad or ambulance crew.

(i) "Permanent and total disability" means medically determinable consequences of a catastrophic, line-of-duty injury that permanently prevent a former public safety officer from performing any gainful work.

(j) "Public safety officer" or "officer" means any individual serving a public agency or any authority, district, board, or other entity created in whole or in part by 1 or more cities, counties, villages, or townships, in an official capacity, with or without compensation, as a law enforcement officer, firefighter, or member of a rescue squad or ambulance crew.

(k) "Surviving spouse" means the husband or wife of the deceased officer at the time of the officer's death, and includes a spouse living apart from the officer at the time of the officer's death for any reason.

History: 2004, Act 46, Eff. Oct. 1, 2003 ;-- Am. 2016, Act 284, Imd. Eff. Sept. 27, 2016
Compiler's Notes: Enacting section 1 of Act 46 of 2004 provides:"This act is retroactive and is effective October 1, 2003."

28.633 Public safety officers benefit fund; creation; disposition and investment of funds; lapse; expenditures; rules.

Sec. 3.

(1) The public safety officers benefit fund is created within the state treasury.

(2) The state treasurer may receive money or other assets from any source for deposit into the fund. The state treasurer shall direct the investment of the fund. The state treasurer shall credit to the fund interest and earnings from fund investments.

(3) Money in the fund at the close of the fiscal year shall remain in the fund and shall not lapse to the general fund.

(4) The commission shall expend money from the fund, upon appropriation, only to carry out the purposes of this act.

(5) The commission shall promulgate rules pursuant to the administrative procedures act of 1969, 1969 PA 306, MCL 24.201 to 24.328, that prescribe standards and rules for the distribution of benefits commensurate with the purpose of this act.

History: 2004, Act 46, Eff. Oct. 1, 2003
Compiler's Notes: Enacting section 1 of Act 46 of 2004 provides:"This act is retroactive and is effective October 1, 2003."

28.634 Death or disability of public safety officer; benefit; amount; additional benefit.

Sec. 4.

(1) If a public safety officer dies or is permanently and totally disabled as the direct and proximate result of a personal injury sustained in the line of duty, this state shall pay a benefit of $25,000.00 for all claims paid before October 1, 2024, and $50,000.00 for all claims paid on or after October 1, 2024, to 1 of the following:

(a) If the deceased public safety officer leaves a surviving spouse, to that surviving spouse.

(b) If the deceased public safety officer does not leave a surviving spouse, to the deceased public safety officer's dependents.

(c) If the public safety officer does not leave a surviving spouse or any surviving dependents, payment must be made to the estate of the deceased public safety officer.

(d) If the public safety officer is permanently and totally disabled, to the spouse, but if there is no spouse, to the dependents, and if there are no dependents, then to the entity providing care to the permanently and totally disabled public safety officer.

(2) The benefit must be paid in addition to any other benefit that the beneficiary receives due to the death of the public safety officer.

History: 2004, Act 46, Eff. Oct. 1, 2003 ;-- Am. 2024, Act 128, Imd. Eff. Oct. 3, 2024
Compiler's Notes: Enacting section 1 of Act 46 of 2004 provides:"This act is retroactive and is effective October 1, 2003."Enacting section 1 of Act 128 of 2024 provides:"Enacting section 1. This amendatory act is retroactive and applies to an application for benefit that is pending before the commission on or after October 1, 2024."

28.634a Death of public safety officer as direct result of injury in line of duty; medical benefit coverage for surviving spouse and dependent children; requirements; "dependent child" defined.

Sec. 4a.

(1) If a public safety officer dies as a direct and proximate result of a personal injury that is sustained in the line of duty on or after October 1, 2015, this state, upon notice to the office of retirement services from the public agency or entity the officer served, and subject to appropriation, shall provide to the decedent's surviving spouse and dependent children a comparable medical benefit plan on comparable terms to the medical benefit plan offered to Michigan state police trooper retirees, including any change to the medical benefit plan after the public safety officer's death. Coverage for a surviving spouse or dependent child under this section is not required to be provided for more than 60 months after the later of the public safety officer's death or the effective date of this section. Coverage under this section is not required to be provided during any period during which the surviving spouse or dependent child, respectively, has qualified for and is covered by a medical benefit plan from another source. Coverage provided under this section ends for a surviving spouse upon Medicare eligibility. Coverage for a dependent child is not required to be provided under this section after the limiting age for a dependent child or another terminating event that is provided in the medical benefit plan for Michigan state police trooper retirees. However, if 42 USC 300gg-14 requires that dependent child eligibility be applied more broadly, this state shall make the coverage available in compliance with that law.

(2) This section does not require this state to provide medical benefits to a surviving spouse or dependent child who, as a result of the public safety officer's death and independent of this section, would receive benefits under a medical benefit plan through a retirement system administered by this state.

(3) In a manner determined by the office of retirement services, the office of retirement services shall administer benefits provided under this section as part of the Michigan state police trooper retiree medical benefit plan and may coordinate the funding or prefunding of those benefits. The office of retirement services shall determine, at its sole discretion, if a medical benefit plan is comparable and offered on comparable terms to the medical benefit plan offered to Michigan state police trooper retirees for purposes of determining the medical benefit plan that will be

offered under this section.

(4) For purposes of this section, "dependent child" means any of the following dependents with respect to the deceased public safety officer:

(a) His or her unmarried natural or adopted child.

(b) A child lawfully placed for adoption with the public safety officer.

(c) His or her stepchild.

(d) A child under the age of 18 if full legal guardianship was awarded to the public safety officer.

(5) If a dependent child of a deceased public safety officer is receiving coverage under this section, a child of the dependent child is not also a dependent child for purposes of this section.

History: Add. 2016, Act 284, Imd. Eff. Sept. 27, 2016

28.635 Interim benefit.

Sec. 5.

(1) If it appears to the commission that a benefit will be paid under section 4, and if a showing of need is made, the commission may make an interim benefit payment of not more than $3,000.00 to the person or entity who would be entitled to receive the full benefit payment.

(2) The amount of an interim benefit payment shall be deducted from the amount of any final benefit paid.

(3) If an interim benefit is paid under this section, but a final benefit in that case is not paid because the death or the permanent and total disability of the public safety officer is determined not to be covered under section 4, the recipient of the interim benefit payment is liable for repayment of that benefit payment. However, the state may waive its right to repayment of all or part of the interim benefit payment if substantial hardship would result to the recipient.

History: 2004, Act 46, Eff. Oct. 1, 2003
Compiler's Notes: Enacting section 1 of Act 46 of 2004 provides:“This act is retroactive and is effective October 1, 2003.”

28.636 Benefit payment; prohibitions.

Sec. 6.

A benefit payment shall not be made under this act if any of the following apply:

(a) The personal injury that resulted in death or permanent and total disability was caused by the intentional misconduct of the public safety officer or by his or her intent to bring about the injury.

(b) The public safety officer was voluntarily intoxicated at the time the personal injury occurred.

(c) The public safety officer was performing his or her duties in a grossly negligent manner at the time the personal injury occurred.

(d) The injury was the direct and proximate result of the actions of an individual to whom payment would be made under this act.

History: 2004, Act 46, Eff. Oct. 1, 2003
Compiler's Notes: Enacting section 1 of Act 46 of 2004 provides:“This act is retroactive and is effective October 1, 2003.”

28.637 Appropriation; amount.

Sec. 7.

One hundred twenty-five thousand dollars is hereby appropriated from the general fund to the public safety

officers benefit fund for fiscal year 2003-2004 to pay for the benefits prescribed in this act.

History: 2004, Act 46, Eff. Oct. 1, 2003
Compiler's Notes: Enacting section 1 of Act 46 of 2004 provides:"This act is retroactive and is effective October 1, 2003."

28.638 Payment of benefits; condition.

Sec. 8.

The payment of benefits under this act is subject to an appropriation by the legislature of money necessary to make the payment.

History: 2004, Act 46, Eff. Oct. 1, 2003
Compiler's Notes: Enacting section 1 of Act 46 of 2004 provides:"This act is retroactive and is effective October 1, 2003."

***** Act 340 OF 1976 EXPIRED DECEMBER 31, 1982, PURSUANT TO § 28.656, AS AMENDED BY ACT 20 OF 1979. ON DECEMBER 31, 1982, § 28.656 WAS AMENDED BY ACT 494 OF 1982, EFFECTIVE MARCH 30, 1983. *****

MUNICIPAL FIRE INSURANCE RATE CLASSIFICATION ADVISORY BOARD

Act 340 of 1976

AN ACT to create a municipal fire service classification board; to prescribe the powers and duties of certain state agencies and officials; to provide for the evaluation of fire service delivery systems; to establish a fire service classification scale; to provide recommendations for the improvement of the capabilities of fire service delivery systems to improve life safety and to reduce fire losses for the citizens of this state; to provide for the promulgation of rules; and to provide for the administration of this act.

History: 1976, Act 340, Imd. Eff. Dec. 15, 1976 ;-- Am. 1982, Act 494, Eff. Mar. 30, 1983

The People of the State of Michigan enact:

***** Act 340 of 1976 EXPIRED DECEMBER 31, 1982, PURSUANT TO § 28.656. ON DECEMBER 31, 1982, THIS SECTION WAS AMENDED BY ACT 494 OF 1982, EFFECTIVE MARCH 30, 1983 *****

28.651 Definitions.

Sec. 1.

As used in this act:

(a) "Board" means the municipal fire service classification board created by section 2.

(b) "Fire service classification scale" means the criteria by which a fire service delivery system is evaluated.

(c) "Fire service delivery system" means all the equipment, personnel, procedures, and resources which are utilized in the prevention and suppression of fire.

(d) "Grade" means the fire protection level which a fire service delivery system achieves on the fire service classification scale.

(e) "Municipality" means a city, village, township, or county.

(f) "Organized fire department" means an organization or department which provides a fire service delivery system within a municipality and is a fire department of a municipality or is a fire service delivery system designated

by a municipality pursuant to a contract with that municipality. Organized fire department includes a department of county employees who are responsible for providing a fire service delivery system for an airport operated by the county or an agency of the county.

History: 1976, Act 340, Imd. Eff. Dec. 15, 1976 ;-- Am. 1982, Act 494, Eff. Mar. 30, 1983
Compiler's Notes: Act 340 of 1976 expired December 31, 1982, pursuant to MCL 28.656, as amended by Act 20 of 1979. On December 31, 1982, this section was amended by Act 494 of 1982, effective March 30, 1983.

***** Act 340 of 1976 EXPIRED DECEMBER 31, 1982, PURSUANT TO § 28.656. ON DECEMBER 31, 1982, THIS SECTION WAS AMENDED BY ACT 494 OF 1982, EFFECTIVE MARCH 30, 1983 *****

28.652 Municipal fire service classification board; creation; appointment, qualifications, and terms of members; vacancy; election of chairperson; meetings; compensation and expenses; staff; quorum; passing on question, action, or business; conducting business at public meeting; notice; minutes; record; availability of writing to public; rules.

Sec. 2.

(1) There is created within the fire marshal division of the department of state police a municipal fire service classification board. The board shall have 11 members. One member shall be the director of the department of state police, or his or her designated representative. One member shall be the director of public health or his or her designated representative. One member shall be appointed by the governor upon the recommendation of the Michigan fire chiefs association. One member shall be appointed by the governor upon the recommendation of the Michigan fire inspectors society. One member shall be appointed by the governor upon the recommendation of the Michigan state fireman's association. One member shall be appointed by the governor upon the recommendation of the Michigan state fire fighter's union. One member shall be appointed by the governor to represent incorporated cities and villages. One member shall be appointed by the governor to represent township government. One member shall be appointed by the governor to represent the general public, and 2 members shall be appointed by the governor to represent the fire insurance industry. At least 1 of the members of the board shall be a member of a rural volunteer fire department. All appointments by the governor shall be by and with the advice and consent of the senate. Appointed members shall be appointed for terms of 4 years. A vacancy on the board shall be filled in the same manner as the original appointment for the remainder of the unexpired term.

(2) Annually the board shall elect a chairperson from its membership. The board shall meet not less than 4 times each year. Special meetings may be called by the chairperson, or upon written request of not less than 5 board members. Meetings shall be held at a location designated by the chairperson.

(3) The per diem compensation for members of the board and the schedule for reimbursement of expenses shall be established annually by the legislature.

(4) The board may employ a staff to assist it in the performance of its duties, subject to civil service rules and within fiscal restraints.

(5) A majority of the members appointed to and serving on the board constitutes a quorum. A majority vote of the members voting shall be required to pass upon any question, action, or business of the board except that a hearing of a contested case may be conducted in the presence of 3 board members. The 3 board members, after hearing the facts and considering the evidence and testimony, shall recommend to the board action to be taken by the board.

(6) The business performed by the board shall be conducted at a public meeting of the board held in compliance with Act No. 267 of the Public Acts of 1976, as amended, being sections 15.261 to 15.275 of the Michigan Compiled Laws. Public notice of the time, date, and place of the meeting shall be given in the manner required by Act No. 267 of the Public Acts of 1976, as amended.

(7) The board shall keep minutes of its proceedings, showing the vote of each member on each proposition or question, or indicating if a member is absent or fails to vote. A record of board action and business shall be made and maintained.

(8) A writing prepared, owned, used, in the possession of, or retained by the board in the performance of an official function shall be made available to the public in compliance with Act No. 442 of the Public Acts of 1976, as amended, being sections 15.231 to 15.246 of the Michigan Compiled Laws.

(9) Rules promulgated under this act shall be promulgated pursuant to Act No. 306 of the Public Acts of 1969, as amended, being sections 24.201 to 24.315 of the Michigan Compiled Laws.

History: 1976, Act 340, Imd. Eff. Dec. 15, 1976 ;-- Am. 1982, Act 494, Eff. Mar. 30, 1983
Compiler's Notes: Act 340 of 1976 expired December 31, 1982, pursuant to MCL 28.656, as amended by Act 20 of 1979. On December 31, 1982, this section was amended by Act 494 of 1982, effective March 30, 1983.

***** Act 340 of 1976 EXPIRED DECEMBER 31, 1982, PURSUANT TO § 28.656. ON DECEMBER 31, 1982, THIS SECTION WAS AMENDED BY ACT 494 OF 1982, EFFECTIVE MARCH 30, 1983 *****

28.653 Duties of board.

Sec. 3.

The board shall:

(a) Submit rules for public hearing within 2 years after the effective date of section 7 which set forth a method of evaluating fire service delivery systems and establish a fire service classification scale. The fire service classification scale may include the following factors:

(i) Available water supply.

(ii) Fire prevention programs and activities.

(iii) Organized fire department administration.

(iv) Fire fighting equipment and apparatus.

(v) Organized fire department training.

(vi) Fire losses.

(vii) Fire prevention code and fire prevention code enforcement.

(viii) Fire incident reporting and fire investigation.

(ix) Fire alarm systems.

(x) Building construction code and building construction code enforcement.

(xi) Communications.

(xii) Personnel.

(xiii) Mutual aid.

(xiv) Fire suppression systems.

(xv) Other fire service delivery technology.

(b) Review any other fire service classification scale upon written request by a municipality.

(c) At least annually, present to the legislature and the commissioner of insurance a report of the board's activities and recommendations under this act.

(d) Develop a system within 5 years after the effective date of this amendatory act which will enable the board to evaluate the extent of compliance with Act No. 207 of the Public Acts of 1941, as amended, being sections 29.1 to 29.25 of the Michigan Compiled Laws, of each building inspected under Act No. 207 of the Public Acts of 1941, as amended. The state fire marshal shall provide the board with current inspection results to assist the board in the development of this system.

History: 1976, Act 340, Imd. Eff. Dec. 15, 1976 ;-- Am. 1982, Act 494, Eff. Mar. 30, 1983
Compiler's Notes: Act 340 of 1976 expired December 31, 1982, pursuant to MCL 28.656, as amended by Act 20 of 1979. On December 31, 1982, this section was amended by Act 494 of 1982, effective March 30, 1983.

28.654 Repealed. 1982, Act 494, Eff. Mar. 30, 1983.

Compiler's Notes: The repealed section pertained to risk classification systems.

***** Act 340 of 1976 EXPIRED DECEMBER 31, 1982, PURSUANT TO § 28.656. ON DECEMBER 31, 1982, THIS SECTION WAS AMENDED BY ACT 494 OF 1982, EFFECTIVE MARCH 30, 1983 *****

28.655 Utilization of fire service classification system of insurer.

Sec. 5.

An insurer authorized to write fire insurance within this state may utilize the fire service classification system promulgated by the board.

History: 1976, Act 340, Imd. Eff. Dec. 15, 1976 ;-- Am. 1982, Act 494, Eff. Mar. 30, 1983
Compiler's Notes: Act 340 of 1976 expired December 31, 1982, pursuant to MCL 28.656, as amended by Act 20 of 1979. On December 31, 1982, this section was amended by Act 494 of 1982, effective March 30, 1983.

***** Act 340 of 1976 EXPIRED DECEMBER 31, 1982, PURSUANT TO § 28.656. ON DECEMBER 31, 1982, THIS SECTION WAS AMENDED BY ACT 494 OF 1982, EFFECTIVE MARCH 30, 1983 *****

28.656 Fire service delivery system; review; grade; information; assistance to municipality; alteration of system; oath; fee schedule; method of assessment.

Sec. 6.

(1) Each municipality's fire service delivery system shall be reviewed by the board every 8 years or as requested by the municipality and a grade established in accordance with the fire service classification scale promulgated by the board pursuant to section 3.

(2) The first review of each municipality's fire service delivery system shall be within 7 years after the effective date of section 7.

(3) Upon request by the board, each municipality shall furnish information to the board on the municipality's fire service delivery system. Information furnished pursuant to this section shall be in the form prescribed by the board.

(4) The board shall within 90 days of reviewing a fire service delivery system, establish the grade for the fire service delivery system using the fire service classification scale.

(5) Upon request by a municipality, the board shall provide assistance to the municipality for the purpose of improving the capabilities of the municipality's fire service delivery system toward improved life safety and reduced fire losses.

(6) If a fire service delivery system of a municipality is altered, and that alteration would change the established grade of the fire service delivery system, the municipality shall provide details of the alterations on forms prescribed by the board.

(7) A person designated by a municipality to submit information to the board regarding a fire service delivery system shall sign a written oath, on a form prescribed by the board, swearing that the information submitted is factual and accurate.

(8) The board shall determine a fee schedule and method of assessment to be charged a municipality for the assistance provided to improve the fire service delivery system.

History: 1976, Act 340, Imd. Eff. Dec. 15, 1976 ;-- Am. 1979, Act 20, Imd. Eff. May 30, 1979 ;-- Am. 1982, Act 494, Eff. Mar. 30, 1983
Compiler's Notes: Act 340 of 1976 expired December 31, 1982, pursuant to MCL 28.656, as amended by Act 20 of 1979. On December 31, 1982, this section was amended by Act 494 of 1982, effective March 30, 1983.

***** ACT 340 OF 1976 EXPIRED DECEMBER 31, 1982, PURSUANT TO § 28.656. ON DECEMBER 31, 1982, THIS SECTION WAS ADDED BY ACT 494 of 1982, EFFECTIVE MARCH 30, 1983 *****

28.657 Application of rule; request for variation; hearing; decision.

Sec. 7.

(1) A municipality or insurer may request a variation of the application of a rule promulgated pursuant to this act

by written application to the board.

(2) The entire board shall act as a hearing body in accordance with Act No. 306 of the Public Acts of 1969, as amended, being sections 24.201 to 24.315 of the Michigan Compiled Laws, to review and render decisions on the recommendations submitted to the board pursuant to section 2(5) regarding a contested case involving the application of a rule promulgated pursuant to this act to any municipality rated by the board as provided in section 6. After a hearing, the board may vary the application of the contested rule if the enforcement of the rule without the variation would do manifest injustice and would be contrary to the spirit and purpose of the rule or the public interest.

(3) A decision of the board to vary the application of a rule shall specify in what manner the variation is made, the conditions upon which it is made, and the reasons for the variation.

History: Add. 1982, Act 494, Eff. Mar. 30, 1983
Compiler's Notes: Act 340 of 1976 expired December 31, 1982, pursuant to MCL 28.656, as amended by Act 20 of 1979. On December 31, 1982, this section was added by Act 494 of 1982, effective March 30, 1983.

PUBLIC THREAT ALERT SYSTEM ACT

Act 235 of 2016

AN ACT to prescribe the public threat alert system as the official response to public threat situations in this state; and to provide for the powers and duties of certain state and local governmental officers and authorities.

History: 2016, Act 235, Eff. Sept. 22, 2016

The People of the State of Michigan enact:

28.671 Short title.

Sec. 1.

This act shall be known and may be cited as the "public threat alert system act".

History: 2016, Act 235, Eff. Sept. 22, 2016

28.672 "Public threat" defined.

Sec. 2.

As used in this act, "public threat" means a clear, present, persistent, ongoing, and random threat to public safety. A public threat includes, but is not limited to, an act of terrorism, an unresolved mass shooting, or an unresolved mass shooting spree.

History: 2016, Act 235, Eff. Sept. 22, 2016

28.673 Public threat alert system plan; establishment; maintenance; design; activation.

Sec. 3.

(1) The department of state police shall establish and maintain the public threat alert system plan.

(2) The public threat alert system plan shall be designed to rapidly disseminate useful information in a predetermined manner to radio and television stations within this state and to wireless devices through the existing wireless emergency alert system operated under federal law.

(3) The public threat alert system plan shall be activated only in accordance with the policies established by the department of state police.

History: 2016, Act 235, Eff. Sept. 22, 2016

28.674 False report; violation as felony; penalty.

Sec. 4.

(1) A person shall not intentionally make a false report of a public threat, or intentionally cause a false report of a public threat to be made, to a peace officer, police agency of this state or of a local unit of government, 9-1-1 operator, or any other governmental employee or contractor or employee of a contractor who is authorized to receive the report, knowing that the report is false. A person who violates this section is guilty of a felony punishable by imprisonment for not more than 4 years or a fine of not more than $2,000.00, or both.

(2) The court may order a person convicted under this section to pay to the state or a local unit of government and the media the costs of responding to the false report or threat, including, but not limited to, the use of police or fire emergency response vehicles and teams, under section 1f of chapter IX of the code of criminal procedure, 1927 PA 175, MCL 769.1f.

History: 2016, Act 235, Eff. Sept. 22, 2016

OFFICE OF SCHOOL SAFETY

Act 435 of 2018

AN ACT to create the office of school safety and prescribe its powers and duties; and to provide for the powers and duties of certain state entities.

History: 2018, Act 435, Eff. Mar. 21, 2019

The People of the State of Michigan enact:

28.681 Office of school safety.

Sec. 1.

(1) The office of school safety is created within the department of state police.

(2) The director of the department of state police shall appoint the director of the office of school safety in accordance with civil service procedures.

History: 2018, Act 435, Eff. Mar. 21, 2019

28.683 Office of school safety; duties; training; federal funding; grant program.

Sec. 3.

(1) The office of school safety shall do all of the following:

(a) In conjunction with the department of education, create model practices for school safety, including, but not limited to, engaging with local law enforcement agencies to assess school buildings for which emergency operation plans are being developed.

(b) Develop and offer training to school staff on school safety. The office of school safety may contract with another party to develop and offer the training required under this subdivision.

(c) In conjunction with the department of education, seek and apply for federal funds relating to school safety and reducing violence and disruption in schools, including, but not limited to, federal funding for alternative schools or programs described in section 1280a of the revised school code, 1976 PA 451, MCL 380.1280a.

(d) Create and administer a grant program to disburse competitive school safety grants as appropriated by the legislature to public schools, nonpublic schools, school districts, and intermediate school districts to improve the safety and security of school buildings, students, and staff.

(2) Subject to appropriation, the department of state police shall provide the office of school safety with the staff and resources necessary for the office to comply with this act.

History: 2018, Act 435, Eff. Mar. 21, 2019

MICHIGAN BLUE ALERT ACT

Act 167 of 2015

AN ACT to prescribe the blue alert of Michigan as the official response to reports of serious injury or death of a law enforcement officer in certain circumstances; and to provide for the powers and duties of certain state and local governmental officers and entities.

History: 2015, Act 167, Eff. Feb. 1, 2016

The People of the State of Michigan enact:

28.691 Short title.

Sec. 1.

This act shall be known and may be cited as the "Michigan blue alert act".

History: 2015, Act 167, Eff. Feb. 1, 2016

28.693 "Law enforcement officer" defined.

Sec. 3.

As used in this act, "law enforcement officer" means that term as defined in section 2 of the commission on law enforcement standards act, 1965 PA 203, MCL 28.602.

History: 2015, Act 167, Eff. Feb. 1, 2016

28.695 Michigan blue alert plan; establishment and maintenance by department of state police; design.

Sec. 5.

(1) The department of state police shall establish and maintain the Michigan blue alert plan.

(2) The Michigan blue alert plan shall be designed to rapidly disseminate useful information in a predetermined manner to radio and television stations within this state.

History: 2015, Act 167, Eff. Feb. 1, 2016

28.697 Activation; conditions.

Sec. 7.

A Michigan blue alert shall be activated only in accordance with policies established by the department of state police and if all of the following conditions apply:

(a) A law enforcement officer has been killed or seriously injured and the law enforcement agency investigating the incident has information identifying an individual as a suspect connected to the incident.

(b) The law enforcement agency that is investigating the suspect determines that the suspect poses a serious risk or threat to the public and other law enforcement personnel.

(c) The law enforcement agency investigating the suspect has obtained the suspect's name or can provide a detailed physical description of the suspect, or the suspect's vehicle, vehicle registration plate numbers or letters, or partial registration plate numbers or letters to be made available for broadcast to the public.

(d) The law enforcement agency investigating the suspect recommends that the state police activate the blue alert.

History: 2015, Act 167, Eff. Feb. 1, 2016

EXECUTIVE REORGANIZATION ORDER

E.R.O. No. 1992-8

28.701 Transfer of powers and duties of the tax fraud division of the department of treasury to the department of state police by type III transfer.

WHEREAS, Article V, Section 2, of the Constitution of the State of Michigan of 1963 empowers the Governor to make changes in the organization of the Executive Branch or in the assignment of functions among its units which he considers necessary for efficient administration; and

WHEREAS, the Tax Fraud Division is currently located in the Department of Treasury; and

WHEREAS, the functions, duties and responsibilities assigned to the Tax Fraud Division can be more effectively organized and carried out under the supervision and direction of the head of the Department of State Police; and

WHEREAS, it is necessary in the interests of efficient administration and effectiveness of government to effect changes in the organization of the Executive Branch of government.

NOW, THEREFORE, I, John Engler, Governor of the State of Michigan, pursuant to the powers vested in me

by the Constitution of the State of Michigan of 1963 and the laws of the State of Michigan, do hereby order the following:

(1) All the authority, powers, duties, functions and responsibilities, including the functions of budgeting, procurement and management-related functions, of the Tax Fraud Division are hereby transferred from the Department of Treasury to the Department of State Police by a Type III transfer, as defined by Section 3 of Act No. 380 of the Public Acts of 1965, as amended, being Section 16.103 of the Michigan Compiled Laws.

(2) The Director of the Department of State Police may continue the current organization of the Tax Fraud Division or may administer the assigned functions in other ways to promote efficient administration.

(3) The Director of the Department of State Police shall provide executive direction and supervision for the implementation of the transfer. The assigned functions shall be administered under the direction and supervision of the Director of the Department of State Police and all prescribed functions of rule making, licensing and registration, including the prescription of rules, regulations, standards and adjudications, shall be transferred to the Director of the Department of State Police.

(4) All records, personnel, property and unexpended balances of appropriations, allocations and other funds used, held, employed, available or to be made available to the Tax Fraud Division for the activities transferred to the Department of State Police by this Order are hereby transferred to the Department of State Police.

(5) The Director of the Department of State Police shall make internal organizational changes as may be administratively necessary to complete the realignment of responsibilities prescribed by this Order.

(6) The State Treasurer and the Director of the Department of State Police shall immediately initiate coordination to facilitate the transfer and develop a memorandum of record identifying any pending settlements, issues of compliance with applicable federal and State laws and regulations, or other obligations to be resolved by the Tax Fraud Division.

(7) All rules, orders, contracts and agreements relating to the assigned functions lawfully adopted prior to the effective date of this Order shall continue to be effective until revised, amended or repealed.

(8) Any suit, action or other proceeding lawfully commenced by, against or before any entity affected by this Order shall not abate by reason of the taking effect of this Order. Any suit, action or other proceeding may be maintained by, against or before the appropriate successor of any entity affected by this Order.

In fulfillment of the requirement of Article V, Section 2, of the constitution of the State of Michigan of 1963, the provisions of this Order shall become effective 60 days from January 13, 1993.

History: 1992 E.R.O. No. 1992-8, Eff. Mar. 15, 1993

EXECUTIVE REORGANIZATION ORDER

E.R.O. No. 1993-15

28.702 Transfer of powers and duties of the Michigan emergency management advisory council to the department of state police by a type III transfer and abolishment of the Michigan emergency management advisory council.

WHEREAS, Article V, Section 2, of the Constitution of the State of Michigan of 1963 empowers the Governor to make changes in the organization of the Executive Branch or in the assignment of functions among its units which he considers necessary for efficient administration; and

WHEREAS, the Michigan Emergency Management Advisory Council was created by Act No. 390 of the Public Acts of 1976, being Sections 30.401 et seq. of the Michigan Compiled Laws, in the Department of State Police; and

WHEREAS, the functions, duties and responsibilities assigned to the Michigan Emergency Management Advisory Council can be more effectively organized and carried out under the supervision and direction of the head of the Department of State Police; and

WHEREAS, it is necessary in the interests of efficient administration and effectiveness of government to effect changes in the organization of the Executive Branch of government.

NOW, THEREFORE, I, John Engler, Governor of the State of Michigan, pursuant to the powers vested in me by the Constitution of the State of Michigan of 1963 and the laws of the State of Michigan, do hereby order the following:

1. All the statutory authority, powers, duties, functions and responsibilities of the Michigan Emergency Management Advisory Council are hereby transferred to the Director of the Department of State Police, as head of the Department of State Police, by a Type III transfer, as defined by Section 3 of Act 380 of the Public Acts of 1965, as amended, being Section 16.103 of the Michigan Compiled Laws, and the Michigan Emergency Management Advisory Council is hereby abolished.

2. The Director of the Department of State Police shall administer the assigned functions to promote efficient administration.

3. The Director of the Department of State Police shall provide executive direction and supervision for the implementation of the transfer. The assigned functions shall be administered under the direction and supervision of the Director of the Department of State Police and all prescribed functions shall be transferred to the Director of the Department of State Police.

4. All records, personnel, property and unexpended balances of appropriations, allocations and other funds used, held, employed, available or to be made available to the Michigan Emergency Management Advisory Council for the activities transferred to the Director of the Department of State Police by this Order are hereby transferred to the Department of State Police.

5. The Director of the Department of State Police shall make internal organizational changes as may be administratively necessary to complete the realignment of responsibilities prescribed by this Order.

6. All rules, orders, contracts and agreements relating to the assigned functions lawfully adopted prior to the effective date of this Order shall continue to be effective until revised, amended or repealed.

7. Any suit, action or other proceeding lawfully commenced by, against or before any entity affected by this Order shall not abate by reason of the taking effect of this Order. Any suit, action or other proceeding may be maintained by, against or before the appropriate successor of any entity affected by this Order.

In fulfillment of the requirement of Article V, Section 2, of the Constitution of the State of Michigan of 1963, the provisions of this Executive Order shall become effective 60 days after filing.

History: 1993 E.R.O. No. 1993-15, Eff. Feb. 21, 1994

MOZELLE SENIOR OR VULNERABLE ADULT MEDICAL ALERT ACT

Act 176 of 2012

AN ACT to prescribe the senior or vulnerable adult medical alert as the official response to reports of certain missing persons; to provide for the broadcast of information regarding those incidents; and to provide for certain civil immunity.

History: 2012, Act 176, Imd. Eff. June 19, 2012

The People of the State of Michigan enact:

28.711 Short title.

Sec. 1.

This act shall be known and may be cited as the "Mozelle senior or vulnerable adult medical alert act".

History: 2012, Act 176, Imd. Eff. June 19, 2012

28.712 Definitions.

Sec. 2.

As used in this act:

(a) "Missing senior or vulnerable adult" means a resident of this state who is 1 of the following:

(i) At least 60 years of age and is believed to be incapable of returning to his or her residence without assistance and is reported missing by a person familiar with that individual.

(ii) A vulnerable adult, as that term is defined in section 145m of the Michigan penal code, 1931 PA 328, MCL 750.145m, who is reported missing by a person familiar with that individual.

(iii) A person who is missing and suffering from senility or a physical or mental condition that subjects the person or others to personal and immediate danger.

(b) "Person familiar with the missing senior or vulnerable adult" means a missing senior's or vulnerable adult's guardian, custodian, or guardian ad litem or an individual who provides the missing senior or vulnerable adult with home health aid services, possesses a health care power of attorney for the missing senior or vulnerable adult, has proof that the missing senior or vulnerable adult has a medical condition, or otherwise has information regarding the missing senior or vulnerable adult.

History: 2012, Act 176, Imd. Eff. June 19, 2012

28.713 Missing senior or vulnerable adult; report.

Sec. 3.

A law enforcement agency that receives notice of a missing senior or vulnerable adult from a person familiar with the missing senior or vulnerable adult shall prepare a report on the missing senior or vulnerable adult. The report shall include the following:

(a) Relevant information obtained from the notification concerning the missing senior or vulnerable adult, including the following:

(i) A physical description of the missing senior or vulnerable adult.

(ii) The date, time, and place that the missing senior or vulnerable adult was last seen.

(iii) The missing senior's or vulnerable adult's address.

(b) Information gathered by a preliminary investigation, if one was made.

(c) A statement by the law enforcement officer in charge setting forth that officer's assessment of the case based upon the evidence and information received.

History: 2012, Act 176, Imd. Eff. June 19, 2012

28.714 Preparation of report.

Sec. 4.

The law enforcement agency shall prepare the report required by section 3 as soon as practicable after the law enforcement agency receives notification of a missing senior or vulnerable adult.

History: 2012, Act 176, Imd. Eff. June 19, 2012

28.715 Forwarding information.

Sec. 5.

(1) After obtaining the information identified in section 3, the law enforcement agency shall as soon as practicable forward that information to all of the following:

(a) All law enforcement agencies that have jurisdiction in the location where the missing senior or vulnerable adult resides and all law enforcement agencies that have jurisdiction in the location where the missing senior or vulnerable adult was last seen.

(b) All law enforcement agencies to which the person who made the notification concerning the missing senior or vulnerable adult requests the report be sent, if the law enforcement agency determines that the request is reasonable in light of the information received.

(c) All law enforcement agencies that request a copy of the report.

(d) One or more broadcasters that broadcast in an area where the missing senior or vulnerable adult may be located.

(2) Upon completion of the report required by section 3, a law enforcement agency may forward a copy of the contents of the report to 1 or more newspapers distributed in an area where the missing senior or vulnerable adult may be located.

(3) After forwarding the contents of the report to a broadcaster or newspaper under this section, the law enforcement agency shall request that the broadcaster or newspaper do the following:

(a) Notify the public that there is a missing senior or vulnerable adult medical alert.

(b) Broadcast or publish a description of the missing senior or vulnerable adult and any other relevant information that would assist in locating the missing senior or vulnerable adult.

History: 2012, Act 176, Imd. Eff. June 19, 2012

28.716 Investigation.

Sec. 6.

A law enforcement agency shall begin an investigation concerning the missing senior or vulnerable adult as soon as possible after receiving notification of a missing senior or vulnerable adult.

History: 2012, Act 176, Imd. Eff. June 19, 2012

28.717 Notification that missing senior or vulnerable adult is found.

Sec. 7.

A person familiar with the missing senior or vulnerable adult who notifies a law enforcement agency concerning a missing senior or vulnerable adult shall notify the law enforcement agency when he or she becomes aware that the missing senior or vulnerable adult has been found.

History: 2012, Act 176, Imd. Eff. June 19, 2012

28.718 Immunity from civil liability.

Sec. 8.

(1) A broadcaster or newspaper that notifies the public that there is a missing senior or vulnerable adult medical alert and broadcasts or publishes to the public information contained in the report forwarded to the broadcaster or newspaper by a law enforcement agency, including a description of the missing senior or vulnerable adult and any other relevant information that would assist in locating the missing senior or vulnerable adult, is immune from civil

liability for an act or omission related to the broadcast or the publication of the newspaper.

(2) The civil immunity described in subsection (1) does not apply to an act or omission that constitutes gross negligence or willful, wanton, or intentional misconduct.

History: 2012, Act 176, Imd. Eff. June 19, 2012

SEX OFFENDERS REGISTRATION ACT

Act 295 of 1994

AN ACT to require persons convicted of certain offenses to register; to prohibit certain individuals from engaging in certain activities within a student safety zone; to prescribe the powers and duties of certain departments and agencies in connection with that registration; and to prescribe fees, penalties, and sanctions.

History: 1994, Act 295, Eff. Oct. 1, 1995 ;-- Am. 2004, Act 237, Eff. Oct. 16, 2004 ;-- Am. 2005, Act 121, Eff. Jan. 1, 2006 ;-- Am. 2005, Act 127, Eff. Jan. 1, 2006

The People of the State of Michigan enact:

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GENERAL

28.721 Short title.

Sec. 1.

This act shall be known and may be cited as the "sex offenders registration act".

History: 1994, Act 295, Eff. Oct. 1, 1995

28.721a Legislative declarations; determination; intent.

Sec. 1a.

The legislature declares that the sex offenders registration act was enacted pursuant to the legislature's exercise of the police power of the state with the intent to better assist law enforcement officers and the people of this state in preventing and protecting against the commission of future criminal sexual acts by convicted sex offenders. The legislature has determined that a person who has been convicted of committing an offense covered by this act poses a potential serious menace and danger to the health, safety, morals, and welfare of the people, and particularly the children, of this state. The registration requirements of this act are intended to provide law enforcement and the people of this state with an appropriate, comprehensive, and effective means to monitor those persons who pose such a potential danger.

History: Add. 2002, Act 542, Eff. Oct. 1, 2002

28.722 Definitions.

Sec. 2.

As used in this act:

(a) "Convicted" means 1 of the following:

(i) Having a judgment of conviction or a probation order entered in any court having jurisdiction over criminal offenses, including, but not limited to, a tribal court or a military court. Convicted does not include a conviction that was subsequently set aside under 1965 PA 213, MCL 780.621 to 780.624, or otherwise expunged.

(ii) Except as otherwise provided in this subparagraph, being assigned to youthful trainee status under sections 11 to 15 of chapter II of the code of criminal procedure, 1927 PA 175, MCL 762.11 to 762.15, before October 1, 2004. An individual who is assigned to and successfully completes a term of supervision under sections 11 to 15 of chapter II of the code of criminal procedure, 1927 PA 175, MCL 762.11 to 762.15, is not convicted for purposes of this act. This subparagraph does not apply if a petition was granted under section 8c at any time allowing the individual to discontinue registration under this act, including a reduced registration period that extends to or past July 1, 2011, regardless of the tier designation that would apply on and after that date.

(iii) Having an order of disposition entered under section 18 of chapter XIIA of the probate code of 1939, 1939 PA 288, MCL 712A.18, that is open to the general public under section 28 of chapter XIIA of the probate code of 1939, 1939 PA 288, MCL 712A.28, if both of the following apply:

(A) The individual was 14 years of age or older at the time of the offense.

(B) The order of disposition is for the commission of an offense that would classify the individual as a tier III offender.

(iv) Having an order of disposition or other adjudication in a juvenile matter in another state or country if both of the following apply:

(A) The individual is 14 years of age or older at the time of the offense.

(B) The order of disposition or other adjudication is for the commission of an offense that would classify the individual as a tier III offender.

(b) "Custodial authority" means 1 or more of the following apply:

(i) The actor was a member of the same household as the victim.

(ii) The actor was related to the victim by blood or affinity to the fourth degree.

(iii) The actor was in a position of authority over the victim and used this authority to coerce the victim to submit.

(iv) The actor was a teacher, substitute teacher, or administrator of the public school, nonpublic school, school district, or intermediate school district in which that other person was enrolled.

(v) The actor was an employee or a contractual service provider of the public school, nonpublic school, school district, or intermediate school district in which that other person was enrolled, or was a volunteer who was not a student in any public school or nonpublic school, or was an employee of this state or of a local unit of government of this state or of the United States assigned to provide any service to that public school, nonpublic school, school district, or intermediate school district, and the actor used the actor's employee, contractual, or volunteer status to gain access to, or to establish a relationship with, that other person.

(vi) That other person was under the jurisdiction of the department of corrections and the actor was an employee or a contractual employee of, or a volunteer with, the department of corrections who knew that the other person was under the jurisdiction of the department of corrections and used the actor's position of authority over the victim to gain access to or to coerce or otherwise encourage the victim to engage in sexual contact.

(vii) That other person was under the jurisdiction of the department of corrections and the actor was an employee or a contractual employee of, or a volunteer with, a private vendor that operated a youth correctional facility under section 20g of the corrections code of 1953, 1953 PA 232, MCL 791.220g, who knew that the other person was under the jurisdiction of the department of corrections.

(viii) That other person was a prisoner or probationer under the jurisdiction of a county for purposes of imprisonment or a work program or other probationary program and the actor was an employee or a contractual employee of, or a volunteer with, the county or the department of corrections who knew that the other person was under the county's jurisdiction and used the actor's position of authority over the victim to gain access to or to coerce or otherwise encourage the victim to engage in sexual contact.

(ix) The actor knew or had reason to know that a court had detained the victim in a facility while the victim was awaiting a trial or hearing, or committed the victim to a facility as a result of the victim having been found responsible for committing an act that would be a crime if committed by an adult, and the actor was an employee or contractual employee of, or a volunteer with, the facility in which the victim was detained or to which the victim was committed.

(c) "Department" means the department of state police.

(d) "Employee" means an individual who is self-employed or works for any other entity as a full-time or part-time employee, contractual provider, or volunteer, regardless of whether the individual is financially compensated.

(e) "Felony" means that term as defined in section 1 of chapter I of the code of criminal procedure, 1927 PA 174, MCL 761.1.

(f) "Indigent" means an individual to whom 1 or more of the following apply:

(i) The individual has been found by a court to be indigent within the last 6 months.

(ii) The individual qualifies for and receives assistance from the department of health and human services food assistance program.

(iii) The individual demonstrates an annual income below the current federal poverty guidelines.

(g) "Internet identifier" means all designations used for self-identification or routing in internet communications or posting.

(h) "Institution of higher education" means 1 or more of the following:

(i) A public or private community college, college, or university.

(ii) A public or private trade, vocational, or occupational school.

(i) "Listed offense" means a tier I, tier II, or tier III offense.

(j) "Local law enforcement agency" means the police department of a municipality.

(k) "Minor" means a victim of a listed offense who was less than 18 years of age at the time the offense was committed.

(l) "Municipality" means a city, village, or township of this state.

(m) "Registering authority" means the local law enforcement agency or sheriff's office having jurisdiction over the individual's residence, place of employment, or institution of higher learning, or the nearest department post designated to receive or enter sex offender registration information within a registration jurisdiction.

(n) "Registration jurisdiction" means each of the 50 states, the District of Columbia, the Commonwealth of Puerto Rico, Guam, the Northern Mariana Islands, the United States Virgin Islands, American Samoa, and the Indian tribes within the United States that elect to function as a registration jurisdiction.

(o) "Residence", as used in this act, for registration and voting purposes means that place at which a person habitually sleeps, keeps the person's personal effects, and has a regular place of lodging. If a person has more than 1 residence, or if a person has a residence separate from that of the person's spouse, that place at which the person resides the greater part of the time must be the person's official residence for the purposes of this act. If a person is homeless or otherwise lacks a fixed or temporary residence, residence means the village, city, or township where the person spends a majority of his or her time. This section does not affect existing judicial interpretation of the term residence for purposes other than the purposes of this act.

(p) "Student" means an individual enrolled on a full- or part-time basis in a public or private educational institution, including, but not limited to, a secondary school, trade school, professional institution, or institution of higher education.

(q) "Tier I offender" means an individual convicted of a tier I offense who is not a tier II or tier III offender.

(r) "Tier I offense" means 1 or more of the following:

(i) A violation of section 145c(4) of the Michigan penal code, 1931 PA 328, MCL 750.145c.

(ii) A violation of section 335a(2)(b) of the Michigan penal code, 1931 PA 328, MCL 750.335a, if a victim is a minor.

(iii) A violation of section 349b of the Michigan penal code, 1931 PA 328, MCL 750.349b, if the victim is a minor.

(iv) A violation of section 449a(2) of the Michigan penal code, 1931 PA 328, MCL 750.449a.

(v) A violation of section 520e or 520g(2) of the Michigan penal code, 1931 PA 328, MCL 750.520e and 750.520g, if the victim is 18 years or older.

(vi) A violation of section 539j of the Michigan penal code, 1931 PA 328, MCL 750.539j, if a victim is a minor.

(vii) A violation of section 160d(1) of the Michigan penal code, 1931 PA 328, MCL 750.160d.

(viii) Any other violation of a law of this state or a local ordinance of a municipality, other than a tier II or tier III offense, that by its nature constitutes a sexual offense against an individual who is a minor.

(ix) An offense committed by a person who was, at the time of the offense, a sexually delinquent person as defined in section 10a of the Michigan penal code, 1931 PA 328, MCL 750.10a.

(x) An attempt or conspiracy to commit an offense described in subparagraphs (i) to (ix).

(xi) An offense substantially similar to an offense described in subparagraphs (i) to (x) under a law of the United States that is specifically enumerated in 34 USC 20911, under a law of any state or any country, or under tribal or military law.

(s) "Tier II offender" means either of the following:

(i) A tier I offender who is subsequently convicted of another offense that is a tier I offense.

(ii) An individual convicted of a tier II offense who is not a tier III offender.

(t) "Tier II offense" means 1 or more of the following:

(i) A violation of section 145a of the Michigan penal code, 1931 PA 328, MCL 750.145a.

(ii) A violation of section 145b of the Michigan penal code, 1931 PA 328, MCL 750.145b.

(iii) A violation of section 145c(2) or (3) of the Michigan penal code, 1931 PA 328, MCL 750.145c.

(iv) A violation of section 145d(1)(a) of the Michigan penal code, 1931 PA 328, MCL 750.145d, except for a violation arising out of a violation of section 157c of the Michigan penal code, 1931 PA 328, MCL 750.157c.

(v) A violation of section 158 of the Michigan penal code, 1931 PA 328, MCL 750.158, committed against a minor unless either of the following applies:

(A) All of the following:

(I) The victim consented to the conduct constituting the violation.
(II) The victim was at least 13 years of age but less than 16 years of age at the time of the violation.
(III) The individual is not more than 4 years older than the victim.
(B) All of the following:
(I) The victim consented to the conduct constituting the violation.
(II) The victim was 16 or 17 years of age at the time of the violation.
(III) The victim was not under the custodial authority of the individual at the time of the violation.
(vi) A violation of section 338, 338a, or 338b of the Michigan penal code, 1931 PA 328, MCL 750.338, 750.338a, and 750.338b, committed against an individual 13 years of age or older but less than 18 years of age. This subparagraph does not apply if the court determines that either of the following applies:
(A) All of the following:
(I) The victim consented to the conduct constituting the violation.
(II) The victim was at least 13 years of age but less than 16 years of age at the time of the violation.
(III) The individual is not more than 4 years older than the victim.
(B) All of the following:
(I) The victim consented to the conduct constituting the violation.
(II) The victim was 16 or 17 years of age at the time of the violation.
(III) The victim was not under the custodial authority of the individual at the time of the violation.
(vii) A violation of section 462e(a) of the Michigan penal code, 1931 PA 328, MCL 750.462e.
(viii) A violation of section 448 of the Michigan penal code, 1931 PA 328, MCL 750.448, if the victim is a minor.
(ix) A violation of section 455 of the Michigan penal code, 1931 PA 328, MCL 750.455.
(x) A violation of section 520c, 520e, or 520g(2) of the Michigan penal code, 1931 PA 328, MCL 750.520c, 750.520e, and 750.520g, committed against an individual 13 years of age or older but less than 18 years of age.
(xi) A violation of section 520c of the Michigan penal code, 1931 PA 328, MCL 750.520c, committed against an individual 18 years of age or older.
(xii) An attempt or conspiracy to commit an offense described in subparagraphs (i) to (xi).
(xiii) An offense substantially similar to an offense described in subparagraphs (i) to (xii) under a law of the United States that is specifically enumerated in 34 USC 20911, under a law of any state or any country, or under tribal or military law.
(u) "Tier III offender" means either of the following:
(i) A tier II offender subsequently convicted of a tier I or II offense.
(ii) An individual convicted of a tier III offense.
(v) "Tier III offense" means 1 or more of the following:
(i) A violation of section 338, 338a, or 338b of the Michigan penal code, 1931 PA 328, MCL 750.338, 750.338a, and 750.338b, committed against an individual less than 13 years of age.
(ii) A violation of section 349 of the Michigan penal code, 1931 PA 328, MCL 750.349, committed against a minor.
(iii) A violation of section 350 of the Michigan penal code, 1931 PA 328, MCL 750.350.
(iv) A violation of section 520b, 520d, or 520g(1) of the Michigan penal code, 1931 PA 328, MCL 750.520b, 750.520d, and 750.520g. This subparagraph does not apply if the court determines that the victim consented to the conduct constituting the violation, that the victim was at least 13 years of age but less than 16 years of age at the time of the offense, and that the individual is not more than 4 years older than the victim.
(v) A violation of section 520c or 520g(2) of the Michigan penal code, 1931 PA 328, MCL 750.520c and 750.520g, committed against an individual less than 13 years of age.
(vi) A violation of section 520e of the Michigan penal code, 1931 PA 328, MCL 750.520e, committed by an individual 17 years of age or older against an individual less than 13 years of age.
(vii) A violation of section 160d(2) of the Michigan penal code, 1931 PA 328, MCL 750.160d.
(viii) An attempt or conspiracy to commit an offense described in subparagraphs (i) to (vii).
(ix) An offense substantially similar to an offense described in subparagraphs (i) to (viii) under a law of the United States that is specifically enumerated in 34 USC 20911, under a law of any state or any country, or under tribal or military law.
(w) "Vehicle" means that term as defined in section 79 of the Michigan vehicle code, 1949 PA 300, MCL 257.79.

History: 1994, Act 295, Eff. Oct. 1, 1995 ;-- Am. 1999, Act 85, Eff. Sept. 1, 1999 ;-- Am. 2002, Act 542, Eff. Oct. 1, 2002 ;-- Am. 2004, Act 240, Eff. Oct. 1, 2004 ;-- Am. 2005, Act 301, Eff. Feb. 1, 2006 ;-- Am. 2011, Act 17, Eff. July 1, 2011 ;-- Am. 2014, Act 328, Eff. Jan. 14, 2015 ;-- Am. 2020, Act 295, Eff. Mar. 24, 2021 ;-- Am. 2024, Act 66, Eff. Oct. 6, 2024

28.723 Individuals required to be registered.

Sec. 3.

(1) Subject to subsection (2), the following individuals who are domiciled or temporarily reside in this state or who work with or without compensation or are students in this state are required to be registered under this act:

(a) An individual who is convicted of a listed offense after October 1, 1995.

(b) An individual convicted of a listed offense on or before October 1, 1995 if on October 1, 1995 he or she is on probation or parole, committed to jail, committed to the jurisdiction of the department of corrections, or under the jurisdiction of the juvenile division of the probate court or the department of human services for that offense or is placed on probation or parole, committed to jail, committed to the jurisdiction of the department of corrections, placed under the jurisdiction of the juvenile division of the probate court or family division of circuit court, or committed to the department of human services after October 1, 1995 for that offense.

(c) An individual convicted on or before October 1, 1995 of an offense described in section 2(d)(vi) as added by 1994 PA 295 if on October 1, 1995 he or she is on probation or parole that has been transferred to this state for that offense or his or her probation or parole is transferred to this state after October 1, 1995 for that offense.

(d) An individual from another state who is required to register or otherwise be identified as a sex or child offender or predator under a comparable statute of that state.

(e) An individual who was previously convicted of a listed offense for which he or she was not required to register under this act, but who is convicted of any other felony on or after July 1, 2011.

(2) An individual convicted of an offense added on September 1, 1999 to the definition of listed offense is not required to be registered solely because of that listed offense unless 1 of the following applies:

(a) The individual is convicted of that listed offense on or after September 1, 1999.

(b) On September 1, 1999, the individual is on probation or parole, committed to jail, committed to the jurisdiction of the department of corrections, under the jurisdiction of the family division of circuit court, or committed to the department of human services for that offense or the individual is placed on probation or parole, committed to jail, committed to the jurisdiction of the department of corrections, placed under the jurisdiction of the family division of circuit court, or committed to the department of human services on or after September 1, 1999 for that offense.

(c) On September 1, 1999, the individual is on probation or parole for that offense which has been transferred to this state or the individual's probation or parole for that offense is transferred to this state after September 1, 1999.

(d) On September 1, 1999, in another state or country the individual is on probation or parole, committed to jail, committed to the jurisdiction of the department of corrections or a similar type of state agency, under the jurisdiction of a court that handles matters similar to those handled by the family division of circuit court in this state, or committed to an agency with the same authority as the department of human services for that offense.

(3) A nonresident who is convicted in this state on or after July 1, 2011 of committing a listed offense who is not otherwise described in subsection (1) shall nevertheless register under this act. However, the continued reporting requirements of this act do not apply to the individual while he or she remains a nonresident and is not otherwise required to report under this act. The individual shall have his or her photograph taken under section 5a.

History: 1994, Act 295, Eff. Oct. 1, 1995 ;-- Am. 1995, Act 10, Eff. Oct. 1, 1995 ;-- Am. 1999, Act 85, Eff. Sept. 1, 1999 ;-- Am. 2011, Act 17, Eff. July 1, 2011

28.723a Hearing to determine if individual exempt from registration.

Sec. 3a.

(1) If an individual pleads guilty to or is found guilty of a listed offense or is adjudicated as a juvenile as being responsible for a listed offense but alleges that he or she is not required to register under this act because section 2(t)(v) or (vi) applies or section 2(v)(iv) applies, and the prosecuting attorney disputes that allegation, the court shall conduct a hearing on the matter before sentencing or disposition to determine whether the individual is required to register under this act.

(2) The individual has the burden of proving by a preponderance of the evidence in a hearing under this section that his or her conduct falls within the exceptions described in subsection (1) and that he or she is therefore not required to register under this act.

(3) The rules of evidence, except for those pertaining to privileges and protections set forth in section 520j of the Michigan penal code, 1931 PA 328, MCL 750.520j, do not apply to a hearing under this section.

(4) The prosecuting attorney shall give the victim notice of the date, time, and place of the hearing.

(5) The victim of the offense has the following rights in a hearing under this section:

(a) To submit a written statement to the court.

(b) To attend the hearing and to make a written or oral statement to the court.

(c) To refuse to attend the hearing.

(d) To attend the hearing but refuse to testify or make a statement at the hearing.

(6) The court's decision excusing or requiring the individual to register is a final order of the court and may be appealed by the prosecuting attorney or the individual as a matter of right.

(7) This section applies to criminal and juvenile cases pending on July 1, 2011 and to criminal and juvenile cases brought on and after that date.

History: Add. 2011, Act 17, Imd. Eff. Apr. 12, 2011 ;-- Am. 2020, Act 295, Eff. Mar. 24, 2021

28.724 Registration; procedures.

Sec. 4.

(1) Registration of an individual under this act must proceed as provided in this section.

(2) For an individual convicted of a listed offense on or before October 1, 1995 who on or before October 1, 1995 is sentenced for that offense, has a disposition entered for that offense, or is assigned to youthful trainee status for that offense, the following shall register the individual by December 31, 1995:

(a) If the individual is on probation for the listed offense, the individual's probation agent.

(b) If the individual is committed to jail for the listed offense, the sheriff or his or her designee.

(c) If the individual is under the jurisdiction of the department of corrections for the listed offense, the department of corrections.

(d) If the individual is on parole for the listed offense, the individual's parole agent.

(e) If the individual is within the jurisdiction of the juvenile division of the probate court or the department of social services under an order of disposition for the listed offense, the juvenile division of the probate court or the department of social services.

(3) Except as provided in subsection (4), for an individual convicted of a listed offense on or before October 1, 1995:

(a) If the individual is sentenced for that offense after October 1, 1995 or assigned to youthful trainee status after October 1, 1995, the probation agent shall register the individual before sentencing or assignment.

(b) If the individual's probation or parole is transferred to this state after October 1, 1995, the probation or parole agent shall register the individual not more than 7 days after the transfer.

(c) If the individual is placed within the jurisdiction of the juvenile division of the probate court or family division of circuit court or committed to the department of health and human services under an order of disposition entered after October 1, 1995, the juvenile division of the probate court or family division of circuit court shall register the individual before the order of disposition is entered.

(4) For an individual convicted on or before September 1, 1999 of an offense that was added on September 1, 1999 to the definition of listed offense, the following shall register the individual:

(a) If the individual is on probation or parole on September 1, 1999 for the listed offense, the individual's probation or parole agent not later than September 12, 1999.

(b) If the individual is committed to jail on September 1, 1999 for the listed offense, the sheriff or his or her designee not later than September 12, 1999.

(c) If the individual is under the jurisdiction of the department of corrections on September 1, 1999 for the listed offense, the department of corrections not later than November 30, 1999.

(d) If the individual is within the jurisdiction of the family division of circuit court or committed to the department of health and human services or county juvenile agency on September 1, 1999 under an order of disposition for the listed offense, the family division of circuit court, the department of health and human services,

or the county juvenile agency not later than November 30, 1999.

(e) If the individual is sentenced or assigned to youthful trainee status for that offense after September 1, 1999, the probation agent shall register the individual before sentencing or assignment.

(f) If the individual's probation or parole for the listed offense is transferred to this state after September 1, 1999, the probation or parole agent shall register the individual within 14 days after the transfer.

(g) If the individual is placed within the jurisdiction of the family division of circuit court or committed to the department of health and human services for the listed offense after September 1, 1999, the family division of circuit court shall register the individual before the order of disposition is entered.

(5) Subject to section 3, an individual convicted of a listed offense in this state after October 1, 1995 and an individual who was previously convicted of a listed offense for which he or she was not required to register under this act, but who is convicted of any other felony on or after July 1, 2011, shall register before sentencing, entry of the order of disposition, or assignment to youthful trainee status for that listed offense or that other felony. The probation agent or the family division of circuit court shall give the individual the registration form after the individual is convicted, explain the duty to register and accept the completed registration for processing under section 6. The court shall not impose sentence, enter the order of disposition, or assign the individual to youthful trainee status, until it determines that the individual's registration was forwarded to the department as required under section 6.

(6) All of the following shall register with the local law enforcement agency, sheriff's department, or the department not more than 3 business days after becoming domiciled or temporarily residing, working, or being a student in this state:

(a) Subject to section 3(1), an individual convicted in another state or country on or after October 1, 1995 of a listed offense as defined before September 1, 1999.

(b) Subject to section 3(2), an individual convicted in another state or country of an offense added on September 1, 1999 to the definition of listed offenses.

(c) Subject to section 3(1), an individual convicted in another state or country of a listed offense before October 1, 1995 and, subject to section 3(2), an individual convicted in another state or country of an offense added on September 1, 1999 to the definition of listed offenses, who is convicted of any other felony on or after July 1, 2011.

(d) An individual required to be registered as a sex offender in another state or country regardless of when the conviction was entered.

(7) If a prosecution or juvenile proceeding is pending on July 1, 2011, whether the defendant in a criminal case or the minor in a juvenile proceeding is required to register under this act must be determined on the basis of the law in effect on July 1, 2011.

History: 1994, Act 295, Eff. Oct. 1, 1995 ;-- Am. 1999, Act 85, Eff. Sept. 1, 1999 ;-- Am. 2004, Act 237, Eff. Oct. 16, 2004 ;-- Am. 2004, Act 240, Eff. Oct. 1, 2004 ;-- Am. 2011, Act 17, Eff. July 1, 2011 ;-- Am. 2020, Act 295, Eff. Mar. 24, 2021

28.724a Status report to registering authority; requirements; reports; written documentation; exception.

Sec. 4a.

(1) An individual required to be registered under this act who is not a resident of this state shall report his or her status in person to the registering authority having jurisdiction over a campus of an institution of higher education if either of the following occurs:

(a) The individual is or enrolls as a student with that institution of higher education or the individual discontinues that enrollment.

(b) As part of his or her course of studies at an institution of higher education in this state, the individual is present at any other location in this state, another state, a territory or possession of the United States, or the individual discontinues his or her studies at that location.

(2) An individual required to be registered under this act who is a resident of this state shall report his or her status in person to the registering authority having jurisdiction where his or her new residence or domicile is located if any of the events described under subsection (1) occur.

(3) The report required under subsections (1) and (2) must be made as follows:

(a) For an individual registered under this act before October 1, 2002 who is required to make his or her first report under subsections (1) and (2), not later than January 15, 2003.

(b) Not more than 3 business days after he or she enrolls or discontinues his or her enrollment as a student on

that campus including study in this state or another state, a territory or possession of the United States, or another country.

(4) The additional registration reports required under this section must be made in the time periods described in section 5a(2)(a) to (c) for reports under that section.

(5) The local law enforcement agency, sheriff's department, or department post to which an individual reports under this section shall require the individual to pay the registration fee required under section 5a or 7(1) and to present written documentation of employment status, contractual relationship, volunteer status, or student status. Written documentation under this subsection may include, but need not be limited to, any of the following:

(a) A W-2 form, pay stub, or written statement by an employer.

(b) A contract.

(c) A student identification card or student transcript.

(6) This section does not apply to an individual whose enrollment and participation at an institution of higher education is solely through the mail or the internet from a remote location.

History: Add. 2002, Act 542, Eff. Oct. 1, 2002 ;-- Am. 2004, Act 237, Eff. Oct. 16, 2004 ;-- Am. 2011, Act 17, Eff. July 1, 2011 ;-- Am. 2020, Act 295, Eff. Mar. 24, 2021

28.725 Conditions requiring individual to report in person and provide notice to registering authority; release of incarcerated individual; notice; compliance; removal upon expungement.

Sec. 5.

(1) An individual required to be registered under this act who is a resident of this state shall report in person, or in another manner as prescribed by the department, and notify the registering authority having jurisdiction where his or her residence or domicile is located not more than 3 business days after any of the following occur:

(a) The individual changes or vacates his or her residence or domicile.

(b) The individual changes his or her place of employment, or employment is discontinued.

(c) The individual enrolls as a student with an institution of higher education, or enrollment is discontinued.

(d) The individual changes his or her name.

(e) Any change required to be reported under section 4a.

(2) An individual required to be registered under this act who is a resident of this state shall report in the manner prescribed by the department to the registering authority having jurisdiction where his or her residence or domicile is located not more than 3 business days after any of the following occur:

(a) Except as otherwise provided in this subdivision, any change in vehicle information, electronic mail addresses, internet identifiers, or telephone numbers registered to or used by the individual. The requirement to report any change in electronic mail addresses and internet identifiers applies only to an individual required to be registered under this act after July 1, 2011.

(b) The individual intends to temporarily reside at any place other than his or her residence for more than 7 days.

(3) An individual required to be registered under this act, who is not a resident of this state but has his or her place of employment in this state shall report in person and notify the registering authority having jurisdiction where his or her place of employment is located or the department post of the individual's place of employment not more than 3 business days after the individual changes his or her place of employment or employment is discontinued.

(4) If an individual who is incarcerated in a state correctional facility and is required to be registered under this act is granted parole or is due to be released upon completion of his or her maximum sentence, the department of corrections, before releasing the individual, shall provide notice of the location of the individual's proposed place of residence or domicile to the department of state police.

(5) If an individual who is incarcerated in a county jail and is required to be registered under this act is due to be released from custody, the sheriff's department, before releasing the individual, shall provide notice of the location of the individual's proposed place of residence or domicile to the department of state police.

(6) Not more than 7 days after either of the following occurs, the department of corrections shall notify the local law enforcement agency or sheriff's department having jurisdiction over the area to which the individual is transferred or the department post of the transferred residence or domicile of an individual required to be registered under this act:

(a) The individual is transferred to a community residential program.

(b) The individual is transferred into a level 1 correctional facility of any kind, including a correctional camp or

work camp.

(7) An individual required to be registered under this act who is a resident of this state shall report in person and notify the registering authority having jurisdiction where his or her residence or domicile is located not more than 3 business days before he or she changes his or her domicile or residence to another state. The individual shall indicate the new state and, if known, the new address. The department shall update the registration and compilation databases and promptly notify the appropriate law enforcement agency and any applicable sex or child offender registration authority in the new state.

(8) An individual required to be registered under this act, who is a resident of this state, shall report in person and notify the registering authority having jurisdiction where his or her residence or domicile is located not later than 21 days before he or she changes his or her domicile or residence to another country or travels to another country for more than 7 days. The individual shall state the new country of residence or country of travel and the address of his or her new domicile or residence or place of stay, if known. The department shall update the registration and compilation databases and promptly notify the appropriate law enforcement agency and any applicable sex or child offender registration authority.

(9) If the probation or parole of an individual required to be registered under this act is transferred to another state or an individual required to be registered under this act is transferred from a state correctional facility to any correctional facility or probation or parole in another state, the department of corrections shall promptly notify the department and the appropriate law enforcement agency and any applicable sex or child offender registration authority in the new state. The department shall update the registration and compilation databases.

(10) An individual registered under this act shall comply with the verification procedures and proof of residence procedures prescribed in sections 4a and 5a.

(11) Except as otherwise provided in this section and section 8c, a tier I offender shall comply with this section for 15 years.

(12) Except as otherwise provided in this section and section 8c, a tier II offender shall comply with this section for 25 years.

(13) Except as otherwise provided in this section and section 8c, a tier III offender shall comply with this section for life.

(14) The registration periods under this section exclude any period of incarceration for committing a crime and any period of civil commitment.

(15) For an individual who was previously convicted of a listed offense for which he or she was not required to register under this act but who is convicted of any felony on or after July 1, 2011, any period of time that he or she was not incarcerated for that listed offense or that other felony and was not civilly committed counts toward satisfying the registration period for that listed offense as described in this section. If those periods equal or exceed the registration period described in this section, the individual has satisfied his or her registration period for the listed offense and is not required to register under this act. If those periods are less than the registration period described in this section for that listed offense, the individual shall comply with this section for the period of time remaining.

(16) If an individual required to be registered under this act presents an order to the department or the appropriate registering authority that the conviction or adjudication for which the individual is required to be registered under this act has been set aside under 1965 PA 213, MCL 780.621 to 780.624, or has been otherwise expunged, his or her registration under this act must be discontinued. If this subsection applies, the department shall remove the individual from both the law enforcement database and the public internet website maintained under section 8.

History: 1994, Act 295, Eff. Oct. 1, 1995 ;-- Am. 1999, Act 85, Eff. Sept. 1, 1999 ;-- Am. 2002, Act 542, Eff. Oct. 1, 2002 ;-- Am. 2004, Act 240, Eff. Oct. 1, 2004 ;-- Am. 2005, Act 123, Eff. Jan. 1, 2006 ;-- Am. 2005, Act 132, Eff. Jan. 1, 2006 ;-- Am. 2006, Act 402, Eff. Dec. 1, 2006 ;-- Am. 2011, Act 17, Eff. July 1, 2011 ;-- Am. 2020, Act 295, Eff. Mar. 24, 2021

28.725a Notice to registered individual; explanation of duties; reporting requirements; homeless exception.

Sec. 5a.

(1) The department shall mail a notice to each individual registered under this act who is not in a state correctional facility explaining the individual's duties under this act as amended.

(2) Upon the release of an individual registered under this act who is in a state correctional facility, the department of corrections shall provide written notice to that individual explaining his or her duties under this

section and this act and the procedure for registration, notification, and verification and payment of the registration fee prescribed under subsection (6) or section 7(1). The individual shall sign and date the notice. The department of corrections shall maintain a copy of the signed and dated notice in the individual's file. The department of corrections shall forward the original notice to the department within 7 days, regardless of whether the individual signs it.

(3) Subject to subsection (4), an individual required to be registered under this act who is not incarcerated shall report in person to the registering authority where he or she is domiciled or resides for verification of domicile or residence as follows:

(a) If the individual is a tier I offender, the individual shall report once each year during the individual's month of birth.

(b) If the individual is a tier II offender, the individual shall report twice each year according to the following schedule:

Birth Month	Reporting Months
January	January and July
February	February and August
March	March and September
April	April and October
May	May and November
June	June and December
July	January and July
August	February and August
September	March and September
October	April and October
November	May and November
December	June and December

(c) If the individual is a tier III offender, the individual shall report 4 times each year according to the following schedule:

Birth Month	Reporting Months
January	January, April, July, and October
February	February, May, August, and November
March	March, June, September, and December
April	April, July, October, and January
May	May, August, November, and February
June	June, September, December, and March
July	July, October, January, and April
August	August, November, February, and May
September	September, December, March, and June
October	October, January, April, and July
November	November, February, May, and August
December	December, March, June, and September

(4) A report under subsection (3) must be made no earlier than the first day or later than the last day of the month in which the individual is required to report. However, if the registration period for that individual expires during the month in which he or she is required to report under this section, the individual shall report during that month on or before the date his or her registration period expires. When an individual reports under subsection (3), the individual shall review all registration information for accuracy.

(5) When an individual reports under subsection (3) an officer or authorized employee of the registering authority shall verify the individual's residence or domicile and any information required to be reported under section 4a. The officer or authorized employee shall also determine whether the individual's photograph required under this act matches the appearance of the individual sufficiently to properly identify him or her from that photograph. If not, the officer or authorized employee shall require the individual to obtain a current photograph within 7 days under this section. When all of the verification information has been provided, the officer or authorized employee shall review that information with the individual and make any corrections, additions, or deletions the officer or authorized employee determines are necessary based on the review. The officer or authorized employee shall sign and date a verification receipt. The officer or authorized employee shall give a copy of the signed receipt showing the date of verification to the individual. The officer or authorized employee shall forward verification information to the department in the manner the department prescribes. The department shall

revise the law enforcement database and public internet website maintained under section 8 as necessary and shall indicate verification in the public internet website maintained under section 8(2).

(6) Except as otherwise provided in section 5b, an individual who reports as prescribed under subsection (3) shall pay a $50.00 registration fee as follows:

(a) Upon initial registration.

(b) Annually following the year of initial registration. The payment of the registration fee under this subdivision must be made at the time the individual reports in the first reporting month for that individual as set forth in subsection (3) of each year in which the fee applies, unless an individual elects to prepay an annual registration fee for any future year for which an annual registration fee is required. Prepaying any annual registration fee must not change or alter the requirement of an individual to report as set forth in subsection (3). The payment of the registration fee under this subdivision is not required to be made for any registration year that has expired before January 1, 2014 or to be made by any individual initially required to register under this act after January 1, 2027. The registration fee required to be paid under this subdivision must not be prorated on grounds that the individual will complete his or her registration period after the month in which the fee is due.

(c) The sum of the amounts required to be paid under subdivisions (a) and (b) must not exceed $550.00.

(7) Except as otherwise provided in this subsection, an individual required to be registered under this act shall maintain either a valid operator's or chauffeur's license issued under the Michigan vehicle code, 1949 PA 300, MCL 257.1 to 257.923, or an official state personal identification card issued under 1972 PA 222, MCL 28.291 to 28.300, with the individual's current address. The license or card may be used as proof of domicile or residence under this section. In addition, the officer or authorized employee may require the individual to produce another document bearing his or her name and address, including, but not limited to, voter registration or a utility or other bill. The department may specify other satisfactory proof of domicile or residence. The requirement to maintain a valid operator's or chauffeur's license issued under the Michigan vehicle code, 1949 PA 300, MCL 257.1 to 257.923, or an official state personal identification card issued under 1972 PA 222, MCL 28.291 to 28.300, does not apply to an individual required to be registered under this act who is homeless. As used in this subsection, "homeless" means someone who lacks a fixed or temporary residence.

(8) An individual registered under this act who is incarcerated shall report to the secretary of state under this subsection not more than 7 days after he or she is released to have his or her digitalized photograph taken. The individual is not required to report under this subsection if he or she had a digitized photograph taken for an operator's or chauffeur's license or official state personal identification card before January 1, 2000, or within 2 years before he or she is released unless his or her appearance has changed from the date of that photograph. Unless the person is a nonresident, the photograph must be used on the individual's operator's or chauffeur's license or official state personal identification card. The individual shall have a new photograph taken when he or she renews the license or identification card as provided by law, or as otherwise provided in this act. The secretary of state shall make the digitized photograph available to the department for a registration under this act.

(9) If an individual does not report under this section or under section 4a, the department shall notify all registering authorities as provided in section 8a and initiate enforcement action as set forth in that section.

(10) The department shall prescribe the form for the notices and verification procedures required under this section.

History: Add. 1999, Act 85, Eff. Sept. 1, 1999 ;-- Am. 2002, Act 542, Eff. Oct. 1, 2002 ;-- Am. 2004, Act 237, Eff. Oct. 16, 2004 ;-- Am. 2004, Act 240, Eff. Oct. 1, 2004 ;-- Am. 2005, Act 322, Eff. Jan. 1, 2006 ;-- Am. 2011, Act 17, Imd. Eff. Apr. 12, 2011 ;-- Am. 2013, Act 149, Eff. Apr. 1, 2014 ;-- Am. 2019, Act 82, Imd. Eff. Sept. 30, 2019 ;-- Am. 2020, Act 295, Eff. Mar. 24, 2021 ;-- Am. 2022, Act 272, Imd. Eff. Dec. 22, 2022

28.725b Sex offenders registration fund; creation; disposition of money; use; lapse; claim of indigence; waiver of fee; payments.

Sec. 5b.

(1) Of the money collected by a court, local law enforcement agency, sheriff's department, or department post from each registration fee prescribed under this act, $30.00 must be forwarded to the department, which shall deposit the money in the sex offenders registration fund created under subsection (2), and $20.00 must be retained by the court, local law enforcement agency, sheriff's department, or department post.

(2) The sex offenders registration fund is created as a separate fund in the department of treasury. The state treasurer shall credit the money received from the payment of the registration fee prescribed under this act to the sex offenders registration fund. Money credited to the fund must only be used by the department for training

concerning, and the maintenance and automation of, the law enforcement database, public internet website, information required under section 8, or notification and offender registration duties under section 4a. Except as otherwise provided in this section, money in the sex offenders registration fund at the close of the fiscal year must remain in the fund and must not lapse to the general fund.

(3) If an individual required to pay a registration fee under this act is indigent, the registration fee is waived for a period of 90 days. The burden is on the individual claiming indigence to prove the fact of indigence to the satisfaction of the local law enforcement agency, sheriff's department, or department post where the individual is reporting.

(4) Payment of the registration fee prescribed under this act must be made in the form and by means prescribed by the department. Upon payment of the registration fee prescribed under this act, the officer or employee shall forward verification of the payment to the department in the manner the department prescribes. The department shall revise the law enforcement database and public internet website maintained under section 8 as necessary and indicate verification of payment in the law enforcement database under section 8(1).

(5) For the fiscal year ending September 30, 2020 only, $3,400,000.00 of the money in the sex offenders registration fund is transferred to and must be deposited into the general fund.

History: Add. 2004, Act 237, Eff. Oct. 16, 2004 ;-- Am. 2011, Act 17, Eff. July 1, 2011 ;-- Am. 2020, Act 202, Imd. Eff. Oct. 15, 2020

28.725c Fee collected by department of corrections; prohibition.

Sec. 5c.

The department of corrections shall not collect any fee prescribed under this act.

History: Add. 2004, Act 237, Eff. Oct. 16, 2004

28.726 Providing or forwarding copy of registration or notification.

Sec. 6.

(1) The officer, court, or agency registering an individual or receiving or accepting a registration under section 4 or receiving notice under section 5(1) shall provide the individual with a copy of the registration or notification at the time of registration or notice.

(2) The officer, court, or agency registering an individual or receiving or accepting a registration under section 4 or notified of an address change under section 5(1) shall forward the registration or notification to the department in a manner prescribed by the department immediately after registration or notification.

History: 1994, Act 295, Eff. Oct. 1, 1995 ;-- Am. 1996, Act 494, Eff. Apr. 1, 1997 ;-- Am. 2011, Act 18, Eff. July 1, 2011

28.727 Registration information; format; fee; requirements; forwarding registration, notice, and verification information to Federal Bureau of Investigation, local agencies, and other registering jurisdictions.

Sec. 7.

(1) Registration information obtained under this act must be forwarded to the department in the format the department prescribes. Except as provided in section 5b(3), a $50.00 registration fee must accompany each original registration. All of the following information must be obtained or otherwise provided for registration purposes:

(a) The individual's legal name and any aliases, nicknames, ethnic or tribal names, or other names by which the

individual is or has been known. An individual who is in a witness protection and relocation program is only required to use the name and identifying information reflecting his or her new identity in a registration under this act. The registration and compilation databases must not contain any information identifying the individual's prior identity or locale.

(b) The individual's Social Security number and any Social Security numbers or alleged Social Security numbers previously used by the individual.

(c) The individual's date of birth and any alleged dates of birth previously used by the individual.

(d) The address where the individual resides or will reside. If the individual does not have a residential address, information under this subsection must identify the location or area used or to be used by the individual in lieu of a residence or, if the individual is homeless, the village, city, or township where the person spends or will spend the majority of his or her time.

(e) The name and address of any place of temporary lodging used or to be used by the individual during any period in which the individual is away, or is expected to be away, from his or her residence for more than 7 days. Information under this subdivision must include the dates the lodging is used or to be used.

(f) The name and address of each of the individual's employers. For purposes of this subdivision, "employer" includes a contractor and any individual who has agreed to hire or contract with the individual for his or her services. Information under this subsection must include the address or location of employment if different from the address of the employer. If the individual lacks a fixed employment location, the information obtained under this subdivision must include the general areas where the individual works and the normal travel routes taken by the individual in the course of his or her employment.

(g) The name and address of any school being attended by the individual and any school that has accepted the individual as a student that he or she plans to attend. For purposes of this subdivision, "school" means a public or private postsecondary school or school of higher education, including a trade school.

(h) All telephone numbers registered to the individual or used by the individual, including, but not limited to, residential, work, and mobile telephone numbers.

(i) Except as otherwise provided in this subdivision, all electronic mail addresses and internet identifiers registered to or used by the individual. This subdivision applies only to an individual required to be registered under this act after July 1, 2011.

(j) The license plate number and description of any vehicle owned or operated by the individual.

(k) The individual's driver license number or state personal identification card number.

(l) A digital copy of the individual's passport and other immigration documents.

(m) The individual's occupational and professional licensing information, including any license that authorizes the individual to engage in any occupation, profession, trade, or business.

(n) A brief summary of the individual's convictions for listed offenses regardless of when the conviction occurred, including where the offense occurred and the original charge if the conviction was for a lesser offense.

(o) A complete physical description of the individual.

(p) The photograph required under section 5a.

(q) The individual's fingerprints if not already on file with the department and the individual's palm prints. An individual required to be registered under this act shall have his or her fingerprints or palm prints or both taken not later than September 12, 2011 if his or her fingerprints or palm prints are not already on file with the department. The department shall forward a copy of the individual's fingerprints and palm prints to the Federal Bureau of Investigation if not already on file with that bureau.

(r) Information that is required to be reported under section 4a.

(2) A registration must contain all of the following:

(a) An electronic copy of the offender's Michigan driver license or Michigan personal identification card, including the photograph required under this act.

(b) The text of the provision of law that defines the criminal offense for which the sex offender is registered.

(c) Any outstanding arrest warrant information.

(d) The individual's tier classification.

(e) An identifier that indicates whether a DNA sample has been collected and any resulting DNA profile has been entered into the federal combined DNA index system (CODIS).

(f) The individual's complete criminal history record, including the dates of all arrests and convictions.

(g) The individual's Michigan department of corrections number and status of parole, probation, or supervised release.

(h) The individual's Federal Bureau of Investigation number.

(3) The form used for notification of duties under this act must contain a written statement that explains the duty of the individual being registered to provide notice of changes in his or her registration information, the procedures for providing that notice, and the verification procedures under section 5a.

(4) The individual shall sign a registration and notice. However, the registration and notice must be forwarded to the department regardless of whether the individual signs it or pays the registration fee required under subsection (1).

(5) The officer, court, or an employee of the agency registering the individual or receiving or accepting a registration under section 4 shall sign the registration form.

(6) An individual shall not knowingly provide false or misleading information concerning a registration, notice, or verification.

(7) The department shall prescribe the form for a notification required under section 5 and the format for forwarding the notification to the department.

(8) The department shall promptly provide registration, notice, and verification information to the Federal Bureau of Investigation and to local law enforcement agencies, sheriff's departments, department posts, and other registering jurisdictions, as provided by law.

History: 1994, Act 295, Eff. Oct. 1, 1995 ;-- Am. 1996, Act 494, Eff. Apr. 1, 1997 ;-- Am. 1999, Act 85, Eff. Sept. 1, 1999 ;-- Am. 2002, Act 542, Eff. Oct. 1, 2002 ;-- Am. 2004, Act 237, Eff. Oct. 16, 2004 ;-- Am. 2011, Act 18, Eff. July 1, 2011 ;-- Am. 2020, Act 295, Eff. Mar. 24, 2021

28.728 Law enforcement database; information to be contained for each registered individual; public internet website; compilation; availability; removal.

Sec. 8.

(1) The department shall maintain a computerized law enforcement database of registrations and notices required under this act. The law enforcement database must contain all of the following information for each individual registered under this act:

(a) The individual's legal name and any aliases, nicknames, ethnic or tribal names, or other names by which the individual is or has been known.

(b) The individual's Social Security number and any Social Security numbers or alleged Social Security numbers previously used by the individual.

(c) The individual's date of birth and any alleged dates of birth previously used by the individual.

(d) The address where the individual resides or will reside. If the individual does not have a residential address, information under this subsection must identify the location or area used or to be used by the individual in lieu of a residence or, if the individual is homeless, the village, city, or township where the individual spends or will spend the majority of his or her time.

(e) The name and address of any place of temporary lodging used or to be used by the individual during any period in which the individual is away, or is expected to be away, from his or her residence for more than 7 days. Information under this subdivision must include the dates the lodging is used or to be used.

(f) The name and address of each of the individual's employers. For purposes of this subdivision, "employer" includes a contractor and any individual who has agreed to hire or contract with the individual for his or her services. Information under this subsection must include the address or location of employment if different from the address of the employer.

(g) The name and address of any school being attended by the individual and any school that has accepted the individual as a student that he or she plans to attend. For purposes of this subdivision, "school" means a public or private postsecondary school or school of higher education, including a trade school.

(h) All telephone numbers registered to the individual or used by the individual, including, but not limited to, residential, work, and mobile telephone numbers.

(i) Except as otherwise provided in this subdivision, all electronic mail addresses and internet identifiers registered to or used by the individual. This subdivision applies only to an individual required to be registered under this act after July 1, 2011.

(j) The license plate number and description of any vehicle owned or operated by the individual.

(k) The individual's driver license number or state personal identification card number.

(l) A digital copy of the individual's passport and other immigration documents.

(m) The individual's occupational and professional licensing information, including any license that authorizes the individual to engage in any occupation, profession, trade, or business.

(n) A brief summary of the individual's convictions for listed offenses regardless of when the conviction occurred, including where the offense occurred and the original charge if the conviction was for a lesser offense.

(o) A complete physical description of the individual.

(p) The photograph required under section 5a.

(q) The individual's fingerprints and palm prints.

(r) An electronic copy of the offender's Michigan driver license or Michigan personal identification card, including the photograph required under this act.

(s) The text of the provision of law that defines the criminal offense for which the sex offender is registered.

(t) Any outstanding arrest warrant information.

(u) The individual's tier classification and registration status.

(v) An identifier that indicates whether a DNA sample has been collected and any resulting DNA profile has been entered into the federal combined DNA index system (CODIS).

(w) The individual's complete criminal history record, including the dates of all arrests and convictions.

(x) The individual's Michigan department of corrections number and the status of his or her parole, probation, or release.

(y) The individual's Federal Bureau of Investigation number.

(2) The department shall maintain a public internet website separate from the law enforcement database described in subsection (1) to implement section 10(2) and (3). Except as provided in subsection (4), the public internet website must contain all of the following information for each individual registered under this act:

(a) The individual's legal name and any aliases, nicknames, ethnic or tribal names, or other names by which the individual is or has been known.

(b) The individual's date of birth.

(c) The address where the individual resides. If the individual does not have a residential address, information under this subsection must identify the village, city, or township used by the individual in lieu of a residence.

(d) The address of each of the individual's employers. For purposes of this subdivision, "employer" includes a contractor and any individual who has agreed to hire or contract with the individual for his or her services. Information under this subsection must include the address or location of employment if different from the address of the employer.

(e) The address of any school being attended by the individual and any school that has accepted the individual as a student that he or she plans to attend. For purposes of this subdivision, "school" means a public or private postsecondary school or school of higher education, including a trade school.

(f) The license plate number and description of any vehicle owned or operated by the individual.

(g) A brief summary of the individual's convictions for listed offenses regardless of when the conviction occurred.

(h) A complete physical description of the individual.

(i) The photograph required under this act. If no photograph is available, the department shall use an arrest photograph or Michigan department of corrections photograph until a photograph as prescribed in section 5a becomes available.

(j) The text of the provision of law that defines the criminal offense for which the sex offender is registered.

(k) The individual's registration status.

(3) The following information must not be made available on the public internet website described in subsection (2):

(a) The identity of any victim of the offense.

(b) The individual's Social Security number.

(c) Any arrests not resulting in a conviction.

(d) Any travel or immigration document numbers.

(e) The individual's tier classification.

(f) The individual's driver license number or state personal identification card number.

(4) The public internet website described in subsection (2) must not include the following individuals:

(a) An individual registered solely because he or she had 1 or more dispositions for a listed offense entered under section 18 of chapter XIIA of the probate code of 1939, 1939 PA 288, MCL 712A.18, in a case that was not designated as a case in which the individual was to be tried in the same manner as an adult under section 2d of chapter XIIA of the probate code of 1939, 1939 PA 288, MCL 712A.2d.

(b) An individual registered solely because he or she was the subject of an order of disposition or other adjudication in a juvenile matter in another state or country.

(c) An individual registered solely because he or she was convicted of a single tier I offense, other than an individual who was convicted of a violation of any of the following:

(i) Section 145c(4) of the Michigan penal code, 1931 PA 328, MCL 750.145c.

(ii) A violation of section 335a(2)(b) of the Michigan penal code, 1931 PA 328, MCL 750.335a, if a victim is a minor.

(iii) Section 349b of the Michigan penal code, 1931 PA 328, MCL 750.349b, if the victim is a minor.

(iv) Section 539j of the Michigan penal code, 1931 PA 328, MCL 750.539j, if a victim is a minor.

(v) An offense substantially similar to an offense described in subparagraphs (i) to (iv) under a law of the United States that is specifically enumerated in 42 USC 16911, under a law of any state or any country, or under tribal or military law.

(5) The compilation of individuals must be indexed alphabetically by village, city, township, and county,

numerically by zip code area, and geographically as determined appropriate by the department.

(6) The department shall update the public internet website with new registrations, deletions from registrations, and address changes at the same time those changes are made to the law enforcement database described in subsection (1). The department shall make the law enforcement database available to each department post, local law enforcement agency, and sheriff's department by the law enforcement information network. Upon request by a department post, local law enforcement agency, or sheriff's department, the department shall provide to that post, agency, or sheriff's department the information from the law enforcement database in printed form for the designated areas located in whole or in part within the post's, agency's, or sheriff's department's jurisdiction. The department shall provide the ability to conduct a computerized search of the law enforcement database and the public internet website based upon the name and campus location of an institution of higher education.

(7) The department shall make the law enforcement database available to a department post, local law enforcement agency, or sheriff's department by electronic, computerized, or other similar means accessible to the post, agency, or sheriff's department. The department shall make the public internet website available to the public by electronic, computerized, or other similar means accessible to the public. The electronic, computerized, or other similar means shall provide for a search by name, village, city, township, and county designation, zip code, and geographical area.

(8) If a court determines that the public availability under section 10 of any information concerning individuals registered under this act violates the constitution of the United States or this state, the department shall revise the public internet website described in subsection (2) so that it does not contain that information.

(9) If the department determines that an individual has completed his or her registration period, including a registration period reduced by law under 2011 PA 18, or that he or she otherwise is no longer required to register under this act, the department shall remove the individual's registration information from both the law enforcement database and the public internet website within 7 days after making that determination.

History: 1994, Act 295, Eff. Oct. 1, 1995 ;-- Am. 1996, Act 494, Eff. Apr. 1, 1997 ;-- Am. 1999, Act 85, Eff. Sept. 1, 1999 ;-- Am. 2002, Act 542, Eff. Oct. 1, 2002 ;-- Am. 2004, Act 238, Eff. May 1, 2005 ;-- Am. 2004, Act 240, Eff. Oct. 1, 2004 ;-- Am. 2011, Act 18, Eff. July 1, 2011 ;-- Am. 2013, Act 2, Eff. June 1, 2013 ;-- Am. 2020, Act 295, Eff. Mar. 24, 2021

28.728a Failure to register or update registration information; duties registering authority; duties of department.

Sec. 8a.

(1) If an individual fails to register or to update his or her registration information as required under this act, the local law enforcement agency, sheriff's office, or department post responsible for registering the individual or for verifying and updating his or her registration information shall do all of the following immediately after the date the individual was required to register or to update his or her registration information:

(a) Determine whether the individual has absconded or is otherwise unlocatable.

(b) If the registering authority was notified by a registration jurisdiction that the individual was to appear in order to register or update his or her registration information in the jurisdiction of the registering authority, notify the department in a manner prescribed by the department that the individual failed to appear as required.

(c) Revise the information in the registry to reflect that the individual has absconded or is otherwise unlocatable.

(d) Seek a warrant for the individual's arrest if the legal requirements for obtaining a warrant are satisfied.

(e) Enter the individual into the national crime information center wanted person file if the requirements for entering information into that file are met.

(2) If an individual fails to register or to update his or her registration information as required under this act, the department shall do all of the following immediately after being notified by the registering authority that the individual failed to appear as required:

(a) Notify that other registration jurisdiction that the individual failed to appear as required.

(b) Notify the United States marshal's service in the manner required by the United States marshal's service of the individual's failure to appear as required.

(c) Update the national sex offender registry to reflect the individual's status as an absconder or as unlocatable.

History: Add. 2011, Act 18, Eff. July 1, 2011
Compiler's Notes: Former MCL 28.728a, which pertained to feasibility studies for providing search by alias and mapping to show address

was repealed by Act 240 of 2004, Eff. Oct. 1, 2004.

28.728b Repealed. 2004, Act 240, Eff. Oct. 1, 2004.

Compiler's Notes: The repealed section pertained to compilation of individuals not requiring registration.

28.728c Petition to discontinue registration; jurisdiction; limitations; oath; contents; false statement; filing copy with office of prosecuting attorney; notice; hearing; rights of victim; factors in court determination; granting of petition.

Sec. 8c.

(1) An individual classified as a tier I offender who meets the requirements of subsection (12) may petition the court under that subsection for an order allowing him or her to discontinue registration under this act.

(2) An individual classified as a tier III offender who meets the requirements of subsection (13) may petition the court under that subsection for an order allowing him or her to discontinue registration under this act.

(3) An individual classified as a tier I, tier II, or tier III offender who meets the requirements of subsection (14) or (15) may petition the court under that subsection for an order allowing him or her to discontinue registration under this act.

(4) This section is the sole means by which an individual may obtain judicial review of his or her registration requirements under this act. This subsection does not prohibit an appeal of the conviction or sentence as otherwise provided by law or court rule. A petition filed under this section shall be filed in the court in which the individual was convicted of committing the listed offense. However, if the conviction occurred in another state or country and the individual is a resident of this state, the individual may file a petition in the circuit court in the county of his or her residence for an order allowing him or her to discontinue registration under this act only. A petition shall not be filed under this section if a previous petition was filed under this section and was denied by the court after a hearing.

(5) A petition filed under this section shall be made under oath and shall contain all of the following:

(a) The name and address of the petitioner.

(b) A statement identifying the offense for which discontinuation from registration is being requested.

(c) A statement of whether the individual was previously convicted of a listed offense for which registration is required under this act.

(6) An individual who knowingly makes a false statement in a petition filed under this section is guilty of perjury as proscribed under section 423 of the Michigan penal code, 1931 PA 328, MCL 750.423.

(7) A copy of the petition shall be filed with the office of the prosecuting attorney that prosecuted the case against the individual or, for a conviction that occurred in another state or country, the prosecuting attorney for the county of his or her residence, at least 30 days before a hearing is held on the petition. The prosecuting attorney may appear and participate in all proceedings regarding the petition and may seek appellate review of any decision on the petition.

(8) If the name of the victim of the offense is known by the prosecuting attorney, the prosecuting attorney shall provide the victim with written notice that a petition has been filed and shall provide the victim with a copy of the petition. The notice shall be sent by first-class mail to the victim's last known address. The petition shall include a statement of the victim's rights under subsection (10).

(9) If an individual properly files a petition with the court under this section, the court shall conduct a hearing on the petition as provided in this section.

(10) The victim has the right to attend all proceedings under this section and to make a written or oral statement to the court before any decision regarding the petition is made. A victim shall not be required to appear at any proceeding under this section against his or her will.

(11) The court shall consider all of the following in determining whether to allow the individual to discontinue registration under subsection (12) or (13) but shall not grant the petition if the court determines that the individual is a continuing threat to the public:

(a) The individual's age and level of maturity at the time of the offense.

(b) The victim's age and level of maturity at the time of the offense.

(c) The nature of the offense.

(d) The severity of the offense.

(e) The individual's prior juvenile or criminal history.

(f) The individual's likelihood to commit further listed offenses.

(g) Any impact statement submitted by the victim under the William Van Regenmorter crime victim's rights act, 1985 PA 87, MCL 780.751 to 780.834, or under this section.

(h) Any other information considered relevant by the court.

(12) The court may grant a petition properly filed by an individual under subsection (1) if all of the following apply:

(a) Ten or more years have elapsed since the date of his or her conviction for the listed offense or from his or her release from any period of confinement for that offense, whichever occurred last.

(b) The petitioner has not been convicted of any felony since the date described in subdivision (a).

(c) The petitioner has not been convicted of any listed offense since the date described in subdivision (a).

(d) The petitioner successfully completed his or her assigned periods of supervised release, probation, or parole without revocation at any time of that supervised release, probation, or parole.

(e) The petitioner successfully completed a sex offender treatment program certified by the United States attorney general under 42 USC 16915(b)(1), or another appropriate sex offender treatment program. The court may waive the requirements of this subdivision if successfully completing a sex offender treatment program was not a condition of the petitioner's confinement, release, probation, or parole.

(13) The court may grant a petition properly filed by an individual under subsection (2) if all of the following apply:

(a) The petitioner is required to register based on an order of disposition entered under section 18 of chapter XIIA of the probate code of 1939, 1939 PA 288, MCL 712A.18, that is open to the general public under section 28 of chapter XIIA of the probate code of 1939, 1939 PA 288, MCL 712A.28.

(b) Twenty-five or more years have elapsed since the date of his or her adjudication for the listed offense or from his or her release from any period of confinement for that offense, whichever occurred last.

(c) The petitioner has not been convicted of any felony since the date described in subdivision (b).

(d) The petitioner has not been convicted of any listed offense since the date described in subdivision (b).

(e) The petitioner successfully completed his or her assigned periods of supervised release, probation, or parole without revocation at any time of that supervised release, probation, or parole.

(f) The court determines that the petitioner successfully completed a sex offender treatment program certified by the United States attorney general under 42 USC 16915(b)(1), or another appropriate sex offender treatment program. The court may waive the requirements of this subdivision if successfully completing a sex offender treatment program was not a condition of the petitioner's confinement, release, probation, or parole.

(14) The court shall grant a petition properly filed by an individual under subsection (3) if the court determines that the conviction for the listed offense was the result of a consensual sexual act between the petitioner and the victim and any of the following apply:

(a) All of the following:

(i) The victim was 13 years of age or older but less than 16 years of age at the time of the offense.

(ii) The petitioner is not more than 4 years older than the victim.

(b) All of the following:

(i) The individual was convicted of a violation of section 158, 338, 338a, or 338b of the Michigan penal code, 1931 PA 328, MCL 750.158, 750.338, 750.338a, and 750.338b.

(ii) The victim was 13 years of age or older but less than 16 years of age at the time of the violation.

(iii) The individual is not more than 4 years older than the victim.

(c) All of the following:

(i) The individual was convicted of a violation of section 158, 338, 338a, 338b, or 520c(1)(i) of the Michigan penal code, 1931 PA 328, MCL 750.158, 750.338, 750.338a, 750.338b, and 750.520c.

(ii) The victim was 16 years of age or older at the time of the violation.

(iii) The victim was not under the custodial authority of the individual at the time of the violation.

(15) The court shall grant a petition properly filed by an individual under subsection (3) if either of the following applies:

(a) Both of the following:

(i) The petitioner was adjudicated as a juvenile.

(ii) The petitioner was less than 14 years of age at the time of the offense.

(b) The individual was registered under this act before July 1, 2011 for an offense that required registration but for which registration is not required on or after July 1, 2011.

History: Add. 2004, Act 240, Eff. Oct. 1, 2004 ;-- Am. 2011, Act 18, Eff. July 1, 2011

28.728d Providing copy of court order granting petition to department and individual.

Sec. 8d.

If the court grants a petition filed under section 8c, the court shall promptly provide a copy of that order to the department and to the individual. The department shall promptly remove an individual's registration from the database maintained under section 8(1).

History: Add. 2004, Act 240, Eff. Oct. 1, 2004 ;-- Am. 2011, Act 18, Eff. July 1, 2011

28.729 Registration required; violations; penalties.

Sec. 9.

(1) Except as provided in subsections (2), (3), and (4), an individual required to be registered under this act who willfully violates this act is guilty of a felony punishable as follows:

(a) If the individual has no prior convictions for a violation of this act, by imprisonment for not more than 4 years or a fine of not more than $2,000.00, or both.

(b) If the individual has 1 prior conviction for a violation of this act, by imprisonment for not more than 7 years or a fine of not more than $5,000.00, or both.

(c) If the individual has 2 or more prior convictions for violations of this act, by imprisonment for not more than 10 years or a fine of not more than $10,000.00, or both.

(2) An individual who willfully fails to comply with section 5a, other than payment of the fee required under section 5a(6), is guilty of a misdemeanor punishable by imprisonment for not more than 2 years or a fine of not more than $2,000.00, or both.

(3) An individual who willfully fails to sign a registration and notice as provided in section 7(4) is guilty of a misdemeanor punishable by imprisonment for not more than 93 days or a fine of not more than $1,000.00, or both.

(4) An individual who willfully refuses or fails to pay the registration fee prescribed in section 5a(6) or 7(1) within 90 days of the date the individual reports under section 4a or 5a is guilty of a misdemeanor punishable by imprisonment for not more than 90 days.

(5) The court shall revoke the probation of an individual placed on probation who willfully violates this act.

(6) The court shall revoke the youthful trainee status of an individual assigned to youthful trainee status who willfully violates this act.

(7) The parole board shall rescind the parole of an individual released on parole who willfully violates this act.

(8) An individual's failure to register as required by this act or a violation of section 5 may be prosecuted in the judicial district of any of the following:

(a) The individual's last registered address or residence.

(b) The individual's actual address or residence.

(c) Where the individual was arrested for the violation.

History: 1994, Act 295, Eff. Oct. 1, 1995 ;-- Am. 1999, Act 85, Eff. Sept. 1, 1999 ;-- Am. 2002, Act 542, Eff. Oct. 1, 2002 ;-- Am. 2004, Act 237, Eff. Oct. 16, 2004 ;-- Am. 2005, Act 132, Eff. Jan. 1, 2006 ;-- Am. 2011, Act 18, Eff. July 1, 2011 ;-- Am. 2020, Act 295, Eff. Mar. 24, 2021

Compiler's Notes: For transfer of powers and duties of Michigan parole and commutation board to Michigan parole board within department of corrections, and abolishment of Michigan parole and commutation board, see E.R.O. No. 2011-3, compiled at MCL 791.305.

28.730 Confidentiality; exemption from disclosure; availability of information on public internet website; violation as misdemeanor; penalty; civil cause of action; applicability of subsections (4) and (5) to public internet website.

Sec. 10.

(1) Except as provided in this act, a registration or report is confidential and information from that registration or report shall not be open to inspection except for law enforcement purposes. The registration or report and all included materials and information are exempt from disclosure under section 13 of the freedom of information act, 1976 PA 442, MCL 15.243.

(2) A department post, local law enforcement agency, or sheriff's department shall make information from the public internet website described in section 8(2) for the designated areas located in whole or in part within the post's, agency's, or sheriff's department's jurisdiction available for public inspection during regular business hours. A department post, local law enforcement agency, or sheriff's department is not required to make a copy of the information for a member of the public.

(3) The department may make information from the public internet website described in section 8(2) available to the public through electronic, computerized, or other accessible means. The department shall provide for notification by electronic or computerized means to any member of the public who has subscribed in a manner required by the department when an individual who is the subject of the public internet website described in section 8(2) initially registers under this act, or changes his or her registration under this act, to a location that is in a designated area or geographic radius designated by the subscribing member of the public.

(4) Except as provided in this act, an individual other than the registrant who knows of a registration or report under this act and who divulges, uses, or publishes nonpublic information concerning the registration or report in violation of this act is guilty of a misdemeanor punishable by imprisonment for not more than 93 days or a fine of not more than $1,000.00, or both.

(5) An individual whose registration or report is revealed in violation of this act has a civil cause of action against the responsible party for treble damages.

(6) Subsections (4) and (5) do not apply to the public internet website described in section 8(2) or information from that public internet website that is provided or made available under section 8(2) or under subsection (2) or (3).

History: 1994, Act 295, Eff. Oct. 1, 1995 ;-- Am. 1996, Act 494, Eff. Apr. 1, 1997 ;-- Am. 1999, Act 85, Eff. Sept. 1, 1999 ;-- Am. 2002, Act 542, Eff. Oct. 1, 2002 ;-- Am. 2004, Act 240, Eff. Oct. 1, 2004 ;-- Am. 2006, Act 46, Eff. Jan. 1, 2007 ;-- Am. 2011, Act 18, Eff. July 1, 2011

28.731, 28.732 Repealed. 2011, Act 18, Eff. July 1, 2011

Compiler's Notes: The repealed sections pertained to effective date and conditional effective date of act.

III
STUDENT SAFETY ZONES

28.733-28.736 Repealed. 2020, Act 295, Eff. Mar. 24, 2021.

Compiler's Notes: MCL 28.733 was added by 2005 PA 121 and 2005 PA 127. 2005 PA 127, being substantively the same as the 2005 PA 121, supersedes and becomes the only version on its effective date.The repealed sections pertained to student safety zones.

MICHIGAN AMBER ALERT ACT

Act 712 of 2002

AN ACT to prescribe the Amber alert of Michigan as the official response to reports of child abductions; to prohibit certain conduct; to create the Michigan Amber alert fund; to provide for the distribution of the money from the Michigan Amber alert fund; to provide for appropriations; and to prescribe penalties.

History: 2002, Act 712, Imd. Eff. Dec. 30, 2002 ;-- Am. 2005, Act 205, Eff. Feb. 1, 2006 ;-- Am. 2013, Act 91, Imd. Eff. June 28, 2013

The People of the State of Michigan enact:

28.751 Short title.

Sec. 1.

This act shall be known and may be cited as the "Michigan Amber alert act".

History: 2002, Act 712, Imd. Eff. Dec. 30, 2002

28.752 Michigan Amber alert plan; establishment; design.

Sec. 2.

(1) The department of state police shall establish and maintain the Michigan Amber alert plan.
(2) The Michigan Amber alert plan shall be designed to rapidly disseminate useful information in a predetermined manner to radio and television stations within this state.

History: 2002, Act 712, Imd. Eff. Dec. 30, 2002

28.753 Activation.

Sec. 3.

The Michigan Amber alert plan shall be activated only in accordance with the policies established by the department of state police.

History: 2002, Act 712, Imd. Eff. Dec. 30, 2002

28.754 False report of abducted or missing child; violation; penalty; order for payment of costs; definitions.

Sec. 4.

(1) A person shall not intentionally make a false report of the abduction of a child, or intentionally cause a false report of the abduction of a child to be made, to a peace officer, police agency of this state or of a local unit of government, 9-1-1 operator, or any other governmental employee or contractor or employee of a contractor who is authorized to receive the report, knowing the report is false. A person who violates this subsection is guilty of a felony punishable by imprisonment for not more than 4 years or a fine of not more than $2,000.00, or both.
(2) A person shall not intentionally make a false report that a child is missing who suffers from severe mental or physical disability that greatly impairs the child's ability to care for himself or herself, or intentionally cause such a report to be made, to a peace officer, police agency of this state or of a local unit of government, 9-1-1 operator, or any other governmental employee or contractor or employee of a contractor who is authorized to receive the report, knowing the report is false. A person who violates this subsection is guilty of a misdemeanor punishable by imprisonment for not more than 1 year or a fine of not more than $1,000.00, or both.
(3) The court may order a person convicted under this section to pay to the state or a local unit of government

and the media the costs of responding to the false report or threat including, but not limited to, use of police or fire emergency response vehicles and teams, pursuant to section 1f of chapter IX of the code of criminal procedure, 1927 PA 175, MCL 769.1f, unless otherwise expressly provided for in this section.

(4) If the person ordered to pay costs under subsection (3) is a juvenile under the jurisdiction of the family division of the circuit court under chapter 10 of the revised judicature act of 1961, 1961 PA 236, MCL 600.1001 to 600.1043, all of the following apply:

(a) If the court determines that the juvenile is or will be unable to pay all of the costs ordered, after notice to the juvenile's parent or parents and an opportunity for the parent or parents to be heard, the court may order the parent or parents having supervisory responsibility for the juvenile, at the time of the acts upon which the order is based, to pay any portion of the costs ordered that is outstanding. An order under this subsection does not relieve the juvenile of his or her obligation to pay the costs as ordered, but the amount owed by the juvenile shall be offset by any amount paid by his or her parent. As used in this subsection, "parent" does not include a foster parent.

(b) If the court orders a parent to pay costs under subdivision (a), the court shall take into account the financial resources of the parent and the burden that the payment of the costs will impose, with due regard to any other moral or legal financial obligations that the parent may have. If a parent is required to pay the costs under subdivision (a), the court shall provide for payment to be made in specified installments and within a specified period of time.

(c) A parent who has been ordered to pay the costs under subdivision (a) may petition the court for a modification of the amount of the costs owed by the parent or for a cancellation of any unpaid portion of the parent's obligation. The court shall cancel all or part of the parent's obligation due if the court determines that payment of the amount due will impose a manifest hardship on the parent.

(5) As used in this section:

(a) "Local unit of government" means:

(i) A city, village, township, or county.

(ii) A local or intermediate school district.

(iii) A public school academy.

(iv) A community college.

(b) "State" includes, but is not limited to, a state institution of higher education.

History: Add. 2005, Act 205, Eff. Feb. 1, 2006

28.755 Michigan Amber alert fund.

Sec. 5.

(1) The Michigan Amber alert fund is created in the department to provide funds for the maintenance, operation, and administration of the Michigan Amber alert plan. The department shall be the administrator of the fund for auditing purposes.

(2) The state treasurer shall credit to the fund all amounts appropriated for this purpose under section 435 of the income tax act of 1967, 1967 PA 281, MCL 206.435, and money from any other source for deposit into the fund.

(3) The state treasurer shall direct the investment of the fund. The fund shall consist of the money credited to the fund pursuant to section 435 of the income tax act of 1967, 1967 PA 281, MCL 206.435, any interest and earnings accruing from the saving and investment of that money, and money from any other source.

(4) Money in the fund at the close of the year shall remain in the fund and shall not lapse to the general fund.

(5) The money, interest, and earnings of the fund shall be expended solely for the purposes described in this act. The money in the fund that is available for distribution shall be appropriated each year. Money granted or received as a gift or donation to the fund is available for distribution upon appropriation.

(6) As used in this section:

(a) "Department" means the department of state police.

(b) "Fund" means the Michigan Amber alert fund.

History: Add. 2013, Act 91, Imd. Eff. June 28, 2013

CHILD ABDUCTION BROADCAST ACT

Act 713 of 2002

AN ACT to provide for the broadcast of information concerning a child abduction on radio and television stations; and to prescribe the content of the information broadcast.

History: 2002, Act 713, Imd. Eff. Dec. 30, 2002

The People of the State of Michigan enact:

28.761 Short title.

Sec. 1.

This act shall be known and may be cited as the "child abduction broadcast act".

History: 2002, Act 713, Imd. Eff. Dec. 30, 2002

28.762 Child abduction; broadcast.

Sec. 2.

A radio or television station receiving information concerning a child abduction from the Michigan state police pursuant to the Amber alert of Michigan act may broadcast that information in any manner designed to assist in the location of the abducted child or apprehension of any suspect.

History: 2002, Act 713, Imd. Eff. Dec. 30, 2002

28.763 Information to be broadcast.

Sec. 3.

The information to be broadcast by a radio or television station under section 2 includes all of the information provided by the Michigan state police.

History: 2002, Act 713, Imd. Eff. Dec. 30, 2002

28.764 Radio and television stations to which information provided; method.

Sec. 4.

The information shall be provided to predetermined radio and television stations by a method agreed to by the Michigan state police and the Michigan association of broadcasters.

History: 2002, Act 713, Imd. Eff. Dec. 30, 2002

28.765 Liability; immunity.

Sec. 5.

A radio or television station that accurately broadcasts information concerning a child abduction obtained from the Michigan state police pursuant to the Amber alert of Michigan is immune from any liability based on the broadcast of that information.

History: 2002, Act 713, Imd. Eff. Dec. 30, 2002

MICHIGAN LAW ENFORCEMENT OFFICERS MEMORIAL ACT

Act 177 of 2004

AN ACT to create the Michigan law enforcement officers memorial monument fund; to establish a commission to govern the monument fund; to prescribe the purpose of the monument fund; to prescribe the powers and duties of the commission and certain state departments and officers; to provide for penalties; and to provide for dissolution of the commission and monument fund.

History: 2004, Act 177, Imd. Eff. July 1, 2004

The People of the State of Michigan enact:

28.781 Short title.

Sec. 1.

This act shall be known and may be cited as the "Michigan law enforcement officers memorial act".

History: 2004, Act 177, Imd. Eff. July 1, 2004

28.782 Definitions.

Sec. 2.

As used in this act:

(a) "Commission" means the Michigan law enforcement officers memorial monument fund commission created in section 4.

(b) "Law enforcement officer" means that term as defined in section 2 of the commission on law enforcement standards act, 1965 PA 203, MCL 28.602.

(c) "Monument fund" means the Michigan police officers memorial monument fund created in section 3.

(d) "Survivor" means any of the following:

(i) A spouse of a law enforcement officer killed on duty.

(ii) A parent of a law enforcement officer killed on duty.

(iii) A sibling of a law enforcement officer killed on duty.

(iv) A child of a law enforcement officer killed on duty.

History: 2004, Act 177, Imd. Eff. July 1, 2004

28.783 Michigan law enforcement officers memorial monument fund; creation as separate fund; disposition of money and interest accrued.

Sec. 3.

The Michigan law enforcement officers memorial monument fund is created as a separate fund in the department of treasury. The state treasurer shall seek appropriate federal tax status for the monument fund. The state treasurer shall credit to the monument fund the money appropriated to the monument fund, money received for the monument fund under section 6, and all interest that accrues on money in the monument fund. The commission may use money in the monument fund as described in this act.

History: 2004, Act 177, Imd. Eff. July 1, 2004

28.784 Michigan law enforcement officers memorial monument fund commission; membership; appointment; terms; vacancy; removal; meetings; business conducted at public meetings; availability of writings; reimbursement.

Sec. 4.

(1) The Michigan law enforcement officers memorial monument fund commission is created as a type II agency in the department of management and budget. The commission is the governing body of the monument fund. The commission shall consist of all of the following:

(a) The state treasurer or his or her designee.

(b) The attorney general or his or her designee.

(c) Five members appointed by the governor as follows:

(i) One member who is a police chaplain who has 5 or more years' experience as a police chaplain.

(ii) One member nominated by the Michigan state troopers association who is a survivor of an officer of the Michigan state police killed while on duty.

(iii) One member nominated by the executive director of the sheriff's association of Michigan who is a survivor of an officer of a county sheriff's department killed while on duty.

(iv) One member nominated by the chief of police of a municipal police department of a municipality with a population of more than 500,000 who is a survivor of an officer of that police department killed while on duty.

(v) One member nominated by the executive director of the Michigan fraternal order of police who is a survivor of an officer killed while on duty who served with a municipal police department of a municipality with a population of 500,000 or less.

(2) Members of the commission appointed under subsection (1)(c) shall serve for terms of 4 years or until a successor is appointed, whichever is later. If a vacancy occurs on the commission, the vacancy shall be filled in the same manner as the original appointment. The governor may remove a member of the commission for incompetency, dereliction of duty, malfeasance, misfeasance, or nonfeasance in office, or any other good cause.

(3) The commission shall initially convene within 6 months after the first deposit of money in the monument fund. The commission shall meet often enough to expedite the completion of the monument as prescribed in section 5. At the first meeting, the commission shall elect from among its members a chairperson and other officers as it considers necessary or appropriate. A majority of the members of the commission constitute a quorum for conducting business.

(4) The commission shall conduct its business at public meetings held in compliance with the open meetings act, 1976 PA 267, MCL 15.261 to 15.275. A writing prepared, owned, used, in the possession of, or retained by the commission in the performance of an official function shall be available to the public in compliance with the freedom of information act, 1976 PA 442, MCL 15.231 to 15.246.

(5) Members of the commission shall serve without compensation. However, members of the commission may be reimbursed for their actual and necessary expenses incurred in the performance of their official duties as members of the commission.

History: 2004, Act 177, Imd. Eff. July 1, 2004

28.785 Solicitation and selection of design; inscription.

Sec. 5.

(1) The commission shall do all of the following:

(a) Oversee the financing, design, and construction of a memorial monument dedicated to those individuals described in subsection (2).

(b) Solicit designs for the monument and select the final design.

(c) Maintain and upkeep the monument, subject to appropriation.

(2) All of the following must be inscribed on the Michigan law enforcement officers memorial monument:

(a) The name of each law enforcement officer and reserve law enforcement officer from this state who died in the line of duty.

(b) The name of each individual from this state who qualifies as an officer who died in the line of duty for purposes of inclusion on the National Law Enforcement Officers Memorial authorized by Public Law 98-534.

History: 2004, Act 177, Imd. Eff. July 1, 2004 ;-- Am. 2013, Act 242, Eff. Mar. 14, 2014 ;-- Am. 2020, Act 215, Imd. Eff. Oct. 15, 2020 ;-- Am. 2022, Act 39, Imd. Eff. Mar. 23, 2022

28.786 Grants or gifts; prohibited fund-raising activities.

Sec. 6.

(1) The commission may accept on behalf of the monument fund grants or gifts from the federal government, an individual, a public or private corporation, organization, or foundation, or any other source. The acceptance and use of federal funds by the commission does not commit state money and does not obligate the legislature to continue the purposes for which federal money is made available. The commission shall transmit money received under this section to the state treasurer for deposit in the monument fund.

(2) A person shall not solicit or collect money for the monument fund through the use of telemarketing.

(3) A person shall not conduct any fund-raising activities in the name of the Michigan law enforcement officers memorial monument fund without prior written approval from the Michigan law enforcement officers memorial monument fund commission.

(4) A person shall not use the name or logo of the Michigan law enforcement officers memorial monument fund or commission in any fund-raising activity without prior written approval of the commission.

(5) A person who violates subsection (2), (3), or (4) is guilty of a misdemeanor for each separate violation, punishable by imprisonment for not more than 1 year or a fine of not more than $1,000.00, or both.

History: 2004, Act 177, Imd. Eff. July 1, 2004

28.787 Repealed. 2022, Act 39, Imd. Eff. Mar. 23, 2022.

Compiler's Notes: The repealed section pertained to the dissolution of the commission and use of remaining funds.

Act 350 of 2016

28.791-28.796 Repealed. 2016, Act 350, Eff. Mar. 21, 2019.

EXECUTIVE REORGANIZATION ORDER

E.R.O. No. 2025-1

28.800 Additional members to be appointed to the school safety and mental health commission; establishment of voting rights for the additional members; imposition of additional duties of the commission.

All students deserve to feel safe in school so they can focus on learning and achieve their full potential. We must do everything in our power to help reduce the chance of school violence and to identify and support children who are in crisis. Throughout my time in office, we have made historic, bipartisan efforts to support student mental health and to help secure the safety of our schools so that our kids can thrive both in and out of the classroom. To continue to help our students and schools in these efforts, it is important to have a single body within state government entirely dedicated to school safety and mental health and comprised of members that represent all critical viewpoints.

The School Safety and Mental Health Commission under the Michigan Department of Education, as originally established in MCL 388.1697e, was repealed in 2024 by Public Act 120. That Commission had similar goals to the Michigan State Police's School Safety and Mental Health Commission, formerly known as the School Safety Commission, which was renamed and reconstituted in Enrolled House Bill 5659 that I proudly signed into law on January 22, 2025. The Department of Education's School Safety and Mental Health Commission made tremendous efforts in reaching their goals and stands as an example of what a good government board can achieve. To best position the new School Safety and Mental Health Commission, reconstituted in Enrolled House Bill 5659, on a pathway to success, I am issuing this Order to ensure that each critical view, voice, and role continues to be a part of this important work.

Section 1 of article 5 of the Michigan Constitution of 1963 vests the executive power of the State of Michigan in the governor.

Section 8 of article 5 of the Michigan Constitution of 1963 obligates the governor to take care that the laws be faithfully executed.

Acting under the Michigan Constitution of 1963 and Michigan law, I order the following:
School Safety and Mental Health Commission

(1) In addition to the members listed in Section 6 (2) of Enrolled House Bill 5659, the following member is added to the School Safety and Mental Health Commission ("Commission") to be appointed by the Governor:

(a) One member who is a prosecutor.

(2) In addition to the department heads listed in Section 6 (3) of Enrolled House Bill 5659, the following shall be added as an ex officio member of the Commission:

(a) The Director of the Department of Lifelong Education, Advancement and Potential or her or his designee.

(3) The first individual appointed to the seat added in Section 1 of this Order shall serve a 4-year term. After the

first appointment, the term for this member shall be 4 years or until a successor is appointed, whichever is later.

(4) The department heads (or their designees) referenced in Section 6 (3) of Enrolled House Bill 5659 and in Section 2 of this Order who are ex officio members of the Commission shall have voting rights.

(5) In addition to the duties set forth in Section 6 (12)(a)-(e) of Enrolled House Bill 5659, the Commission may also review and make recommendations related to school safety measures including but not limited to:

(a) The development and evaluation of school safety model practices;

(b) A review of the statewide school safety information policy and the emergency operations plans;

(c) The role of school safety liaisons;

(d) The emerging trends in school safety technology;

(e) The baseline safety requirements for schools;

(f) The baseline hardening measures for new and existing schools.

(6) Unless expressly modified here, all other powers, duties, or requirements regarding the School Safety and Mental Health Commission set forth in Enrolled House Bill 5659 shall continue to be in effect.

History: 2025, E.R.O. No. 2025-1, Eff. Apr. 3, 2025
Compiler's Notes: Executive Reorganization Order No. 2025-1 was promulgated Jan. 22, 2025, as Executive Order No. 2025-1, Eff. Apr. 3, 2025.

COMPREHENSIVE SCHOOL SAFETY PLAN ACT

Act 548 of 2018

AN ACT to create the comprehensive school safety plan act; to create the school safety and mental health commission and provide for its powers and duties; to provide for the powers and duties of certain state and local governmental officers and entities; and to prohibit divulging certain information and prescribe penalties.

History: 2018, Act 548, Eff. Mar. 28, 2019 ;-- Am. 2024, Act 263, Eff. Apr. 2, 2025

The People of the State of Michigan enact:

28.801 Short title.

Sec. 1.

This act shall be known and may be cited as the "comprehensive school safety plan act".

History: 2018, Act 548, Eff. Mar. 28, 2019

28.803 Definitions.

Sec. 3.

As used in this act:

(a) "Commission" means the following:

(i) Before January 1, 2025, the school safety commission created under section 5.

(ii) Beginning January 1, 2025, the school safety and mental health commission created under section 6.

(b) "Department" means the department of state police.

(c) "School" means a public school, nonpublic school, or public school academy as those terms are defined in section 5 of the revised school code, 1976 PA 451, MCL 380.5.

(d) "School safety liaison" means the individual designated by a school under section 1241 of the revised school code, 1976 PA 451, MCL 380.1241, to work with the commission.

History: 2018, Act 548, Eff. Mar. 28, 2019 ;-- Am. 2024, Act 263, Eff. Apr. 2, 2025

28.805 Repealed. 2024, Act 263, Eff. Apr. 2, 2025.

Compiler's Notes: The repealed section pertained to the creation of the school safety commission.

28.806 School safety and mental health commission.

Sec. 6.

(1) Beginning January 1, 2025, the school safety and mental health commission is established within the department.

(2) The commission must consist of all of the following members who must be appointed by the governor as follows:

(a) One member from a list of 3 or more names submitted by the minority leader of the house of representatives who has experience in school mental health.

(b) One member from a list of 3 or more names submitted by the speaker of the house of representatives who has a background in law enforcement.

(c) One member from a list of 3 or more names submitted by the speaker of the house of representatives who is a parent.

(d) One member from a list of 3 or more names submitted by the speaker of the house of representatives who has experience with special education.

(e) One member from a list of 3 or more names submitted by the senate minority leader who is a school psychologist or psychiatrist.

(f) One member from a list of 3 or more names submitted by the senate majority leader who is a behavioral health professional or behavioral psychologist.

(g) One member from a list of 3 or more names submitted by the senate majority leader who is a teacher.

(h) One member from a list of 3 or more names submitted by the senate majority leader who is affiliated with a community based organization working with youths.

(i) One member who has a background in school administration.

(j) One member who has experience in school threat assessments.

(k) One member who has experience in the provision of inpatient treatment to children under age 18.

(l) One member who is a current student or recent graduate of a high school.

(3) The following department heads or the department heads' designees that are from within the respective departments or agencies may be nonvoting, ex officio members of the commission:

(a) The director of the department.

(b) The superintendent of public instruction.

(c) The director of the department of health and human services.

(4) The governor shall appoint 7 of the first members to 2-year terms and 5 of the first members to 4-year terms.

After the first appointments, the term of a member of the commission is 4 years or until a successor is appointed under subsection (2), whichever is later.

(5) If a vacancy occurs on the commission, an individual must be appointed in the same manner as prescribed under subsection (2) to fill the vacancy for the balance of the term.

(6) The governor may remove a member of the commission for incompetence, dereliction of duty, malfeasance, or nonfeasance in office, or any other good cause.

(7) The commission shall meet at least quarterly.

(8) A majority of the members of the commission constitutes a quorum for transacting business. A vote of the majority of the members of the commission serving is required for any action of the commission.

(9) The commission shall conduct its business in compliance with the open meetings act, 1976 PA 267, MCL 15.261 to 15.275.

(10) A writing that is prepared, owned, used, possessed, or retained by the commission in performing an official function is subject to the freedom of information act, 1976 PA 442, MCL 15.231 to 15.246.

(11) A member of the commission is not entitled to compensation for service on the commission, but the commission may reimburse a member for actual and necessary expenses incurred in serving.

(12) The commission may do all of the following:

(a) Collaborate to provide recommendations to reduce youth suicides and strengthen the mental health of school-aged children, adolescents, and their families through a comprehensive, statewide approach.

(b) Seek input from educational professionals, mental health professionals, and organizations from across this state to suggest approaches to identify and support students at risk of behavioral health issues.

(c) Collaborate with the Michigan suicide prevention commission on recommendations regarding youth suicide.

(d) Create and maintain an online community through which best practices and resources can be shared, and convene symposiums with other relevant commissions, organizations, and professionals.

(e) Convey recommendations to the department of licensing and regulatory affairs and the bureau of construction codes within the department of licensing and regulatory affairs concerning building construction that is consistent with school safety needs.

(13) The department in consultation with the commission may hire an executive director and staff.

(14) Beginning October 30, 2026 and annually each October 30 thereafter, the commission shall prepare and issue an annual report to the house and senate school aid appropriation committees, the house and senate standing committees on education, and the house and senate fiscal agencies detailing its findings, recommendations, and updates for prior initiatives. The committee shall make the report filed under this subsection publicly available on the department's website.

History: Add. 2024, Act 263, Eff. Apr. 2, 2025
Compiler's Notes: For the appointment of additional members to the school safety and mental health commission; establishment of voting rights of the additional members; and imposition of additional duties of the commission, see E.R.O. No. 2025-1, compiled at MCL 28.800.

28.807 Rules.

Sec. 7.

The department shall promulgate rules to implement this act pursuant to the administrative procedures act of 1969, 1969 PA 306, MCL 24.201 to 24.328.

History: 2018, Act 548, Eff. Mar. 28, 2019

28.809 Confidentiality; disclosure of information; violation; misdemeanor.

Sec. 9.

(1) A member of the commission shall not knowingly divulge information designated confidential by section 5 or information that places a school at risk.

(2) An individual who violates subsection (1) is guilty of a misdemeanor punishable by imprisonment for not more than 90 days or a fine of $500.00.

History: 2018, Act 548, Eff. Mar. 28, 2019

LAW ENFORCEMENT AND FIREFIGHTER ACCESS TO EPINEPHRINE ACT

Act 312 of 2020

AN ACT to allow certain law enforcement officers and firefighters to administer auto-injectable epinephrine in certain circumstances; to provide access to auto-injectable epinephrine by eligible entities, law enforcement officers, and firefighters; and to limit civil and criminal liability of certain entities and individuals.

History: 2020, Act 312, Imd. Eff. Dec. 29, 2020

The People of the State of Michigan enact:

28.821 Short title; definitions.

Sec. 1.

(1) This act shall be known and may be cited as the "law enforcement and firefighter access to epinephrine act".
(2) As used in this act:
(a) "Eligible entity" means a law enforcement agency or organized fire department that is prescribed auto-injectable epinephrine.
(b) "Firefighter" means that term as defined in section 1 of the fire prevention code, 1941 PA 207, MCL 29.1.
(c) "Law enforcement agency" means that term as defined in section 2 of the Michigan commission on law enforcement standards act, 1965 PA 203, MCL 28.602.
(d) "Law enforcement officer" means that term as defined in section 2 of the Michigan commission on law enforcement standards act, 1965 PA 203, MCL 28.602.
(e) "Organized fire department" means that term as defined in section 1 of the fire prevention code, 1941 PA 207, MCL 29.1.

History: 2020, Act 312, Imd. Eff. Dec. 29, 2020

28.822 Purchase and possession of auto-injectable epinephrine; eligible entities; distribution to law enforcement officers or firefighters; training required.

Sec. 2.

(1) An eligible entity may purchase and possess auto-injectable epinephrine for purposes of this act and distribute that auto-injectable epinephrine to law enforcement officers or firefighters in its employ who have been trained in the administration of that auto-injectable epinephrine as required under subsection (3).
(2) If a law enforcement officer or firefighter has completed the training required under subsection (3), the law enforcement officer or firefighter may administer auto-injectable epinephrine prescribed to an eligible entity to an individual who the law enforcement officer or firefighter has reason to believe is experiencing anaphylaxis, regardless of whether the individual has a prescription for epinephrine or has been previously diagnosed with an allergy.

(3) An individual shall complete training on the proper administration of auto-injectable epinephrine before administering auto-injectable epinephrine under this act.

History: 2020, Act 312, Imd. Eff. Dec. 29, 2020

28.823 Civil and criminal immunity; "gross negligence" defined.

Sec. 3.

(1) An eligible entity that purchases, stores, or provides to a law enforcement officer or firefighter auto-injectable epinephrine for use under section 2 is immune from civil liability for injuries, death, or damages arising out of the administration of that auto-injectable epinephrine to any individual, if the conduct does not amount to gross negligence that is the proximate cause of injury, death, or damage.

(2) Any law enforcement officer or firefighter who possesses, administers, or fails to administer auto-injectable epinephrine under section 2 is immune from civil liability for injuries, death, or damages arising out of the administration or failure to administer auto-injectable epinephrine to any individual, if the conduct does not constitute willful or wanton misconduct that is the proximate cause of injury, death, or damage.

(3) An eligible entity that purchases, possesses, or distributes auto-injectable epinephrine under section 2 and any law enforcement officer or firefighter who possesses, administers, or fails to administer auto-injectable epinephrine under section 2 is not subject to criminal prosecution for purchasing, possessing, or distributing auto-injectable epinephrine, or administering or failing to administer auto-injectable epinephrine to any individual under this act.

(4) This section does not eliminate, limit, or reduce any other immunity or defense that may be available under the laws of this state.

(5) As used in this section, "gross negligence" means that term as defined in section 7 of 1964 PA 170, MCL 691.1407.

History: 2020, Act 312, Imd. Eff. Dec. 29, 2020

VOLUNTEER EMPLOYEE CRIMINAL HISTORY SYSTEM ACT

Act 23 of 2023

AN ACT to create the volunteer employee criminal history system program; to impose a fee for conducting a national and state criminal history record information check; and to provide for the powers and duties of certain state and local governmental officers and entities.

History: 2023, Act 23, Eff. May 1, 2023

The People of the State of Michigan enact:

28.831 Short title.

Sec. 1.

This act may be cited as the "volunteer employee criminal history system act".

History: 2023, Act 23, Eff. May 1, 2023

28.832 Definitions.

Sec. 2.

As used in this act:

(a) "Care or care placement services" means the provision of care, treatment, education, training, instruction, supervision, or recreation to a child, an elderly individual, or an individual with a disability.

(b) "Child" means an individual who is less than 18 years of age and is not emancipated by operation of law as provided in section 4 of 1968 PA 293, MCL 722.4.

(c) "Covered individual" means an individual who meets any of the following requirements:

(i) Is employed by a qualified entity and has, seeks to have, or may have supervised or unsupervised access to a child, an elderly individual, or individual with a disability for whom the qualified entity provides care or care placement services.

(ii) Is a volunteer of a qualified entity and has, seeks to have, or may have supervised or unsupervised access to a child, an elderly individual, or individual with a disability for whom the qualified entity provides care or care placement services.

(iii) Owns, operates, or seeks to own or operate a qualified entity.

(d) "Criminal history record information" means that term as defined in section 1a of 1925 PA 289, MCL 28.241a.

(e) "Department" means the department of state police.

(f) "Elderly individual" means an individual who is 65 years of age or older.

(g) "Individual with a disability" means an individual with a mental or physical impairment who requires assistance to perform 1 or more daily living tasks.

(h) "Program" means the volunteer employee criminal history system program created in section 3.

(i) "Qualified entity" means a business or organization, whether public, private, operated for profit, or operated not for profit that provides care or care placement services. A qualified entity includes a business or organization that licenses or certifies others to provide care or care placement services.

(j) "Rap back program" means a state or federal record of arrest and prosecution background program that enables qualified entities to receive ongoing status notifications of any criminal history reported on covered individuals whose fingerprints are registered in the system thereby eliminating the need for repeated background checks on covered individuals by qualified entities.

History: 2023, Act 23, Eff. May 1, 2023

28.833 Volunteer employee criminal history system program; duties of department.

Sec. 3.

(1) The volunteer employee criminal history system program is created in the department for the purpose of authorizing a national and state criminal history record information of a qualified entity's covered individuals.

(2) The department shall do both of the following:

(a) Develop the application, approval, and compliance process and standards necessary to operate and manage the program.

(b) Develop the application form and any other forms required for a qualified entity's registration and participation in the program.

History: 2023, Act 23, Eff. May 1, 2023

28.834 Request for criminal history record; registration of qualified entity; compliance audit.

Sec. 4.

(1) A qualified entity may submit a request to the department for a covered individual's national and state criminal history record information under the program. The request submitted under this subsection, for each covered individual, must include a copy of the covered individual's signed and submitted statement required under section 6(3) and the covered individual's fingerprints.

(2) A qualified entity that submits a request for a covered individual's national and state criminal history record information under subsection (1) shall register with the department. As part of the registration process, the qualified entity shall agree to comply with state and federal law, including, but not limited to, the national child protection act of 1993, 34 USC 40101 to 40104.

(3) The department may, in its sole discretion, audit a registered qualified entity to ensure that the registered qualified entity is complying with state and federal law, including, but not limited to, the national child protection act of 1993, 34 USC 40101 to 40104.

History: 2023, Act 23, Eff. May 1, 2023

28.835 Rap back program.

Sec. 5.

A qualified entity may participate in a rap back program. A qualified entity that participates in a rap back program shall notify a covered individual that is subject to a national and state criminal history record information under this act that the individual's fingerprints may be retained by the department's automated fingerprint identification system and the Federal Bureau of Investigation for all purposes authorized for fingerprint submissions subject to ongoing monitoring.

History: 2023, Act 23, Eff. May 1, 2023

28.836 Determination of fitness; fingerprinting and written statement requirements; waiver; notice; maintenance of records.

Sec. 6.

(1) A qualified entity may require a covered individual to submit the individual's fingerprints under this section to determine whether the national and state criminal history record information shows that the covered individual has been convicted of or is under pending indictment for any crime that bears on the individual's fitness to be responsible for the safety and well-being of a child, an elderly individual, or individual with a disability.

(2) The determination of the covered individual's fitness must be made solely by the qualified entity. This section does not require the department to make a fitness determination on behalf of a qualified entity. The national and state criminal history record information received under this section may only be used by the qualified entity for the purpose of determining the fitness of a covered individual, as described in this section.

(3) A qualified entity may not submit a request for a national and state criminal history record information to the department under this section unless the covered individual has provided the individual's fingerprints and a completed and signed written statement to the qualified entity that includes, but is not limited to, all of the following:

(a) The name, address, and date of birth of the covered individual as it appears on a valid identification document. As used in this subdivision, "identification document" means a document that is intended or commonly accepted for the purpose of identifying an individual and is made or issued by or under the authority of the United States government, a state, political subdivision of a state, sponsoring entity of an event designated as a special event of national significance, foreign government, political subdivision of a foreign government, or an international governmental or an international quasi-governmental organization.

(b) Notice that the covered individual's fingerprints may be used to conduct a national and state criminal history record information of the covered individual and that the criminal history record may be used by the qualified entity to deny the individual's supervised or unsupervised access to a child, an elderly individual, or individual with a disability for whom the qualified entity provides care or care placement services.

(c) A waiver permitting the qualified entity to request and receive the national and state criminal history record information of a covered individual for the purpose of determining the individual's fitness to provide care or care placement services for a child, an elderly individual, or individual with a disability.

(d) A disclosure stating whether the covered individual has ever been convicted or is the subject of pending charges for a criminal offense and, if convicted, a description of the offense and the result of the conviction.

(e) Notice of the covered individual's right to obtain a copy of any background screening report, including the national and state criminal history record information, if any, contained in the report, and of the right to challenge the accuracy or completeness of any information contained in the report and to obtain a prompt determination as to the validity of the challenge before a final determination regarding the individual's fitness is made by the qualified entity reviewing the national and state criminal history record information. A covered individual may only challenge the information contained in the national and state criminal history record information as provided in 28 CFR 16.34.

(4) A qualified entity shall maintain in its records the statement provided under subsection (3) that is completed and signed by the covered individual.

History: 2023, Act 23, Eff. May 1, 2023

28.837 Fingerprint identification system database; storage and retention of fingerprints; disclosure of criminal history record information to qualified entity.

Sec. 7.

(1) The department shall store and retain all fingerprints submitted under this act in an automated fingerprint identification system database that searches against latent fingerprints. The department shall forward all fingerprints submitted to it under this section to the Federal Bureau of Investigation to be retained in the next generation identification system or its successor system.

(2) The department shall provide directly to the qualified entity the state criminal history record information that is not exempt from disclosure under section 2a of 1925 PA 289, MCL 28.242a, or otherwise confidential under state or federal law. The department shall provide directly to the qualified entity the national and state criminal history record information as authorized by law and the covered individual's signed and written statement required under section 6(3).

History: 2023, Act 23, Eff. May 1, 2023

28.838 Fees.

Sec. 8.

The department may charge a fee for a national and state criminal history record information conducted under this act that does not exceed the actual and reasonable cost of conducting the check, plus the amount prescribed by the Federal Bureau of Investigation for the national criminal history record information in compliance with the national child protection act of 1993, 34 USC 40101 to 40104.

History: 2023, Act 23, Eff. May 1, 2023

28.839 Application of screening criteria.

Sec. 9.

If a federal or state law requires a qualified entity to apply screening criteria to the national and state criminal history record information of a covered individual, including any right to contest or request an exemption from disqualification, the qualified entity shall apply the screening criteria under that other law to the national and state criminal history record information received for a covered individual that is subject to the required screening.

History: 2023, Act 23, Eff. May 1, 2023

28.840 Application of act; liability.

Sec. 10.

(1) This act does not do either of the following:

(a) Create additional duties or obligations for a qualified entity to obtain the national and state criminal history record information authorized under this act.

(b) Relieve a qualified entity of its duty to obtain a covered individual's criminal history or any other information in accordance with the requirements of any other applicable law.

(2) This state, a political subdivision of this state, or any agency, officer, or employee of this state or a political subdivision is not liable for damages to a covered individual for the timely provision of an accurate national and state criminal history record information requested under this act.

History: 2023, Act 23, Eff. May 1, 2023

28.841 Program not entitlement or right; administration of program subject to appropriation.

Sec. 11.

This program does not create an entitlement or right to use the program. The department is not required to administer this program unless the legislature appropriates sufficient funds for the program. The department may administer the program subject to any limitations the department considers necessary or appropriate in the absence of the legislature appropriating funds for the program.

History: 2023, Act 23, Eff. May 1, 2023