

SENATE BILL No. 1150

November 8, 2018, Introduced by Senator JONES and referred to the Committee on Judiciary.

A bill to amend 1978 PA 397, entitled
"Bullard-Plawecki employee right to know act,"
by amending sections 7 and 9 (MCL 423.507 and 423.509).

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1 Sec. 7. An employer shall review a personnel record before
2 releasing information to a third party and ~~, except when the~~
3 ~~release is ordered in a legal action or arbitration to a party in~~
4 ~~that legal action or arbitration,~~ delete disciplinary reports,
5 letters of reprimand, or other records of disciplinary action ~~which~~
6 **THAT** are more than 4 years old. **THIS SECTION DOES NOT APPLY TO ANY**
7 **OF THE FOLLOWING CIRCUMSTANCES:**

8 (A) THE RELEASE IS ORDERED IN A LEGAL ACTION TO A PARTY IN
9 THAT LEGAL ACTION.

10 (B) THE RELEASE IS ORDERED IN AN ARBITRATION TO A PARTY IN

1 THAT ARBITRATION.

2 (C) THE RELEASE IS PART OF A RECORD REGARDING THE REASON OR
3 REASONS FOR, AND CIRCUMSTANCES SURROUNDING, A SEPARATION OF SERVICE
4 UNDER SECTION 5 OF THE LAW ENFORCEMENT OFFICER SEPARATION OF
5 SERVICE RECORD ACT, 2017 PA 128, MCL 28.565.

6 (D) THE RELEASE IS REQUESTED BY THE MICHIGAN COMMISSION ON LAW
7 ENFORCEMENT STANDARDS, A LAW ENFORCEMENT TRAINING ACADEMY, OR A LAW
8 ENFORCEMENT AGENCY FOR THE PURPOSE OF DETERMINING COMPLIANCE WITH
9 LICENSING STANDARDS AND PROCEDURES UNDER THE MICHIGAN COMMISSION ON
10 LAW ENFORCEMENT STANDARDS ACT, 1965 PA 203, MCL 28.601 TO 28.615.

11 Sec. 9. (1) If an employer has reasonable cause to believe
12 that an employee is engaged in criminal activity ~~which may~~ **THAT**
13 **MIGHT** result in loss or damage to the employer's property or
14 disruption of the employer's business operation, and the employer
15 is engaged in an investigation, then the employer may keep a
16 separate file of information relating to the investigation. Upon
17 completion of the investigation or after 2 years, whichever comes
18 first, the employee ~~shall~~ **MUST** be notified that an investigation
19 was or is being conducted of the suspected criminal activity
20 described in this section. Upon completion of the investigation, if
21 disciplinary action is not taken, the investigative file and all
22 copies of the material in it ~~shall~~ **MUST** be destroyed.

23 (2) ~~If the~~ **AN** employer **THAT** is a criminal justice agency ~~which~~
24 **AND THAT** is involved in the investigation of an alleged criminal
25 activity or the violation of an agency rule by ~~the~~ **AN** employee ~~7~~
26 ~~the employer~~ shall maintain a separate confidential file of
27 information relating to the investigation. Upon completion of the

1 investigation, if disciplinary action is not taken, the employee
2 ~~shall~~**MUST** be notified that an investigation was conducted. If the
3 investigation reveals that the allegations are unfounded ~~,—OR~~
4 unsubstantiated ~~,—or~~ **IF** disciplinary action is not taken, the
5 separate file ~~shall~~**MUST** contain a notation of the final
6 disposition of the investigation and information in the file ~~shall~~
7 **MUST** not be used in any future consideration for promotion,
8 transfer, additional compensation, or disciplinary action. **THE**
9 **EMPLOYER MAY RELEASE INFORMATION IN THE SEPARATE FILE TO A**
10 **PROSPECTIVE EMPLOYING LAW ENFORCEMENT AGENCY IF THE INFORMATION IS**
11 **PART OF A RECORD REGARDING THE REASON OR REASONS FOR, AND**
12 **CIRCUMSTANCES SURROUNDING, A SEPARATION OF SERVICE UNDER SECTION 5**
13 **OF THE LAW ENFORCEMENT OFFICER SEPARATION OF SERVICE RECORD ACT,**
14 **2017 PA 128, MCL 28.565. THE EMPLOYER SHALL RELEASE INFORMATION IN**
15 **THE SEPARATE FILE TO THE MICHIGAN COMMISSION ON LAW ENFORCEMENT**
16 **STANDARDS UPON THE REQUEST OF THE MICHIGAN COMMISSION ON LAW**
17 **ENFORCEMENT STANDARDS.**

18 Enacting section 1. This amendatory act takes effect 90 days
19 after the date it is enacted into law.