

HOUSE BILL NO. 4119

February 03, 2021, Introduced by Reps. Anthony and Frederick 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), as amended
by 2018 PA 521.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1 Sec. 7. **(1)** An employer shall review a personnel record before
2 releasing information to a third party and, **except as provided**
3 **under subsection (2)**, delete disciplinary reports, letters of
4 reprimand, or other records of disciplinary action that are more

1 than 4 years old. This section does not apply to any of the
 2 following circumstances:

3 (a) The release is ordered in a legal action to a party in
 4 that legal action.

5 (b) The release is ordered in an arbitration to a party in
 6 that arbitration.

7 (c) ~~The~~ **Except as provided under subsection (2), the** release
 8 is part of a record regarding the reason or reasons for, and
 9 circumstances surrounding, a separation of service under section 5
 10 of the ~~law enforcement officer separation of service record act,~~
 11 2017 PA 128, MCL 28.565.

12 (d) The release is requested by the Michigan commission on law
 13 enforcement standards, a law enforcement training academy, or a law
 14 enforcement agency for the purpose of determining compliance with
 15 licensing standards and procedures under the Michigan commission on
 16 law enforcement standards act, 1965 PA 203, MCL 28.601 to 28.615.

17 **(2) A corrections agency shall delete disciplinary reports,**
 18 **letters of reprimand, or other records of disciplinary action**
 19 **against a corrections officer that are more than 2 years old.**

20 Sec. 9. (1) If an employer has reasonable cause to believe
 21 that an employee is engaged in criminal activity that might result
 22 in loss or damage to the employer's property or disruption of the
 23 employer's business operation, and the employer is engaged in an
 24 investigation, then the employer may keep a separate file of
 25 information relating to the investigation. Upon completion of the
 26 investigation or after 2 years, whichever comes first, the employee
 27 must be notified that an investigation was or is being conducted of
 28 the suspected criminal activity described in this section. Upon
 29 completion of the investigation, if disciplinary action is not

1 taken, the investigative file and all copies of the material in it
2 must be destroyed.

3 (2) An employer that is a criminal justice agency and that is
4 involved in the investigation of an alleged criminal activity or
5 the violation of an agency rule by an employee shall maintain a
6 separate confidential file of information relating to the
7 investigation. Upon completion of the investigation, if
8 disciplinary action is not taken, the employee must be notified
9 that an investigation was conducted. If the investigation reveals
10 that the allegations are unfounded or unsubstantiated or if
11 disciplinary action is not taken, the separate file must contain a
12 notation of the final disposition of the investigation and
13 information in the file must not be used in any future
14 consideration for promotion, transfer, additional compensation, or
15 disciplinary action. The employer may release information in the
16 separate file to a prospective employing law enforcement agency **or**
17 **prospective employing corrections agency** if the information is part
18 of a record regarding the reason or reasons for, and circumstances
19 surrounding, a separation of service under section 5 of the ~~law~~
20 ~~enforcement-officer separation of service record act~~, 2017 PA 128,
21 MCL 28.565. ~~The~~ **If the employee is a law enforcement officer, the**
22 employer shall release information in the separate file to the
23 Michigan commission on law enforcement standards upon the request
24 of the Michigan commission on law enforcement standards.

25 Enacting section 1. This amendatory act does not take effect
26 unless Senate Bill No. ____ or House Bill No. 4118 (request no.
27 01770'21) of the 101st Legislature is enacted into law.