

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. An employer shall review a personnel record before
2 releasing information to a third party and delete disciplinary
3 reports, letters of reprimand, or other records of disciplinary
4 action that are more than 4 years old. This section does not apply

1 to any of the following circumstances:

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

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

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

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

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

27 (2) An employer that is a criminal justice agency and that is
28 involved in the investigation of an alleged criminal activity or
29 the violation of an agency rule by an employee shall maintain a

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

20 Enacting section 1. This amendatory act does not take effect
21 unless Senate Bill No. ____ or House Bill No. 4118 (request no.
22 01770'21) of the 101st Legislature is enacted into law.