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Senate Bill 1099 (as introduced 11-13-24)  
Sponsor: Senator Sarah Anthony  
Committee: Civil Rights, Judiciary, and Public Safety

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## **INTRODUCTION**

The bill would modify licensure requirements for law enforcement officers. Before licensure, a prospective officer would have to complete a comprehensive background check to determine character fitness. An employing agency would have to consider an applicable separation of service record of a previously employed officer and attest to the Michigan Commission on Law Enforcement Standards (MCOLES) that the individual met licensing requirements. The bill would allow MCOLES to grant a license to an individual that did not meet licensing requirements if MCOLES determined the individual could be brought into compliance with licensing standards through additional means of verifying compliance and if the individual agreed to comply with those additional means and voluntarily relinquish the license upon failure to comply. The bill would allow a license to lapse if an officer did not meet certain continuing education requirements as promulgated by MCOLES.

Additionally, the bill would require employing agencies to report to MCOLES an officer who was the subject of certain criminal charges, the imposition of a personal protective orders or an extreme risk protection order (ERPO), and a conviction prohibiting an individual from handling a firearm for three years. The Commission would have to revoke an officer's license if the individual were convicted of a misdemeanor involving domestic violence for assault and battery against specific individuals.

## **FISCAL IMPACT**

The bill would have a moderate fiscal impact on State and local law enforcement agencies, amending and adding certain law enforcement officer licensing requirements and powers established for law enforcement agencies and MCOLES, which should largely be supported by existing revenues.

MCL 28.609 et al.

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## **CONTENT**

**The bill would amend the Michigan Commission on Law Enforcement Standards Act to do the following:**

- **Require individuals licensed as law enforcement officers to undergo a comprehensive background investigation to determine character fitness, among other licensing requirements.**
- **Require an employing agency to review an officer's separation of service record before executing an oath.**
- **Require an employing agency to attest to MCOLES that an officer satisfied licensing requirements and include any documentation requested by MCOLES.**
- **Allow MCOLES to grant a license to an individual upon determination that the individual could be brought into compliance with licensing standards through additional screening, procedures, examinations, testing or other means of verifying compliance provided that the individual agreed to comply with the additional means and voluntarily relinquish the license upon failure to comply.**
- **Require an employing agency to report to MCOLES any determination by a medical doctor that an individual was unable to carry out an essential function of a police officer, including making an arrest.**
- **Require a law enforcement agency to report to MCOLES if an officer in its employ were the subject of certain criminal charges, the imposition of a personal protective order, the imposition of an ERPO, or a conviction prohibiting an individual from handling a firearm for three years.**
- **Require an officer to report to MCOLES the imposition of a personal protective order or ERPO against the officer and a conviction prohibiting an individual from handling a firearm for three years.**
- **Require a license to lapse if an officer did not comply with continuing education requirements promulgated by MCOLES.**
- **Require MCOLES to revoke a license of an individual who was convicted of a misdemeanor involving domestic violence for assault and battery against specific individuals, among other reasons for revocation.**

### **Law Enforcement Officer Licensure**

Under the Act, the term "law enforcement officer" broadly refers to an individual employed by a law enforcement agency with the authority to prevent and detect crime and to enforce State laws. The term encompasses a range of positions, including the following:

- State, Tribal, and legislative officers.
- Specialized and local officers, such as conservation officers, township constables, marshals, park rangers, police officers, and officers appointed by certain local governments.
- University and educational officers, including public safety officers employed by community colleges, universities, and certain authorized institutions.
- Public transportation officers, such as transit and railroad police and airport security.
- Certain investigators, including Medicaid fraud investigators, highway reciprocity board officers, fire arson investigators, and prosecuting attorneys' investigators.

Under the Act, certain individuals, although involved with security or enforcement, are not considered law enforcement officers under the definition, including citation issuers, Michigan Department of Agricultural and Rural Development personnel with limited peace officer authority, certain non-licensed or volunteer officers, railroad conductors, and other inspectors and agents with limited authority.

## Licensing Standards

Under the Act, MCOLES is required to promulgate rules governing licensing standards and procedures pertaining to training and eligibility requirements. The rules for a license issued under Sections 9, 9b, 9c, and 9d must include standards for character fitness as determined by a background investigation supported by a written authorization executed by the individual for whom licensure is sought. The bill would modify this requirement to specify that character fitness would have to be determined by a comprehensive background check supported by a waiver executed by the individual seeking licensure. The waiver and comprehensive background investigation would have to contain information required by MCOLES.

(Sections 9, 9b, 9c, and 9d of the Act govern the licensure of the following categories of law enforcement officers, respectively: individuals who are licensed as law enforcement officers; Michigan tribal law enforcement officers authorized to enforce State law; fire arson investigators from fire departments within local units of government; and private college security officers. Sections 9a applies to sheriffs.)

Currently, before executing the oath of office under Sections 9, 9b, and 9c, an employing law enforcement agency must verify that the individual to whom the oath applies complies with the licensing standards. The bill specifies that if an individual were currently a licensed officer, who was previously employed by another law enforcement agency, Tribal law enforcement agency, fire department, or private college, the employing agency's verification to the compliance of licensing standards could exclude the following:

- Training requirements that were completed by the recognition of prior basic law enforcement training and experience or by completing certain pre-enrollment requirements.
- Proficiency on a licensing examination.
- Education.
- Reading and writing proficiency.
- Minimum age.

Additionally, before executing the oath of office under Sections 9, 9b, 9c, and 9d the agency would have to verify in writing that it had reviewed the law enforcement officer's separation of service record from a former law enforcement agency as required by the Law Enforcement Separation of Service Record Act, if applicable.<sup>1</sup>

## MCOLES Verification and Licensure

Within 10 days after executing an oath of office for an individual under Section 9, 9b, 9c, and 9d an employing law enforcement agency must attest in writing to MCOLES that the individual to whom the oath was administered satisfied the licensing standards by submitting an executed affidavit and a copy of the executed oath in office. The bill would delete the 10-day period to notify MCOLES and would require the employing agency to also include any other documents required by MCOLES.

If after reviewing the affidavit and oath of office, MCOLES determines that the individual complies with the licensing standards, MCOLES must grant the individual licensure. The bill would delete this provision. Instead, to grant licensure, upon receipt of the documents from an employing law enforcement agency MCOLES would have to review all documents and determine compliance with licensing standards. The bill would allow MCOLES to require the

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<sup>1</sup> Separation of service records must include the reasons and circumstances surrounding a law enforcement officer's separation of service.

employing agency to provide physical or electronic copies of the comprehensive background check or any other documents considered necessary by MCOLES.

If MCOLES determines that the individual does not comply with the licensing standards, MCOLES may supervise the remediation of errors or omissions in the affidavit and oath to office or in the screening, procedures, examinations, testing, and other means used to verify compliance. The bill would also allow MCOLES to supervise the remediation of errors in the comprehensive background investigation.

Additionally, upon determination of noncompliance, MCOLES may supervise additional screening, procedures, examinations, testing, and other means used to determine compliance. The bill specifies that MCOLES could grant the individual a license if MCOLES determined that the individual could be brought into compliance with the licensing standards with additional screening, procedures, examinations, testing or other means of verifying compliance provided that the individual agreed to comply with the additional means to determine compliance and would voluntarily relinquish the license upon failure to comply with the additional means required of the individual.

Currently, an employing agency must promptly inform an individual if MCOLES has denied the officer's licensure.

Individuals who have been denied licensure cannot exercise law enforcement authority but are not divested of that authority until notification of the denial. The bill would delete this provision and specify that that an individual would not be licensed until MCOLES granted the license in accordance with the Act.

#### Law Enforcement Agency Duties

A law enforcement agency that has administered an oath under Section 9, 9b, 9c, and 9d must report to MCOLES all personnel transactions affecting employment status and 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. The bill also would require the agency to report to MCOLES any determination by a medical doctor that the individual was unable to carry out an essential function of a police officer, including making an arrest. Additionally, in a manner as prescribed in rules promulgated in MCOLES, the agency would have to report all the following to MCOLES immediately upon being informed by an individual:

- All criminal charges for offenses for which that individual's license could be revoked.
- The imposition of a personal protection order against the individual under Sections 2950 or 2950a of the Revised Judicature Act, or under the laws of any other jurisdiction.<sup>2</sup>
- The imposition of an ERPO under Section 7 of the Extreme Risk Protection Order Act, or the laws of any other states.<sup>3</sup>
- A conviction that was subject to the restrictions described under Section 224f of the Michigan Penal Code, which prohibits an individual with a felony from possessing, using, transporting, selling, purchasing, carrying, shipping, receiving, or distributing a firearm for three years and provides a schedule of convictions and expiration dates of restrictions.

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<sup>2</sup> Sections 2950 and 2950a of the Revised Judicature Act govern intimate relationship and sexual assault restraining orders, respectively.

<sup>3</sup> Section 7 of the Extreme Risk Protection Order Act prescribes the process to issue an extreme risk protection order for an individual who could be expected within the near future to intentionally or unintentionally seriously physically injure himself, herself, or another individual by possessing a firearm, and has engaged in an act or acts or made significant threats that are substantially supportive of the expectation.

### Individual Reporting

The Act requires a licensed individual to report certain information to MCOLES including criminal charges for offenses that could result in a license revocation and the imposition of a personal protective order after a judicial hearing under Sections 2950 and 2950a of the Revised Judicature Act, or any laws of another jurisdiction.

Under the bill, an individual licensed under Sections 9, 9a, 9b, 9c, and 9d also would have to report to MCOLES all the following:

- The imposition of a personal protection order against the individual under Sections 2950 or 2950a of the Revised Judicature Act, or under the laws of any other jurisdiction.
- The imposition of an ERPO under Section 7 of the Extreme Risk Protection Order Act, or the laws of any other state.
- A conviction that was subject to the restrictions described under Section 224f of the Michigan Penal Code.

The bill specifies that the notification would have to be made immediately upon being informed of the imposition of a charge, order, restriction, or filing of the order in a court of competent jurisdiction, whichever was applicable.

### Inactive and Lapsed Licenses

A law enforcement license is rendered inactive if a law enforcement officer is employed for fewer than 2,080 hours and then isn't employed or loses their authority for less than a year, or if the officer worked at least 2,080 hours and isn't employed or lose their authority for fewer than two years. A license lapses if a law enforcement officer works fewer than 2,080 hours and then is not employed or loses their authority for a year, or if they work at least 2,080 hours and then aren't employed or lose their authority for two years, without preventing future licensure. The bill also would allow a license for a law enforcement officer and a Tribal law enforcement officer to be rendered inactive or lapsed if the individual failed to comply with the continuing professional education requirements prescribed by MCOLES and was notified in writing through the individuals employing agency by MCOLES of the inactivation or lapse.

A fire arson investigator's license and a private college security officers licenses are considered lapsed if the individual is no longer employed or the individual is subject to a removal of authority. The bill would add that if the individual failed to comply with the continuing professional education requirements prescribed in rules by the MCOLES for one year after being notified by MCOLES through the individual's employing fire department or employer that the individual's license would be lapsed.

An employing law enforcement agency may reactivate an inactive license by complying with the licensure procedures prescribed under the Act, except for the required verification and attestation to compliance with licensing standards. The bill would add that the agency also would have to comply with the MCOLES procedures upon reviewal of licensing documentation proposed by the bill.

### Revocation of a License

The Act prescribes the conditions under which MCOLES may revoke a license including if the individual made certain false statements or committed fraud, had been subjected to an adjudication of guilt for a violation of certain laws, such as possessing certain controlled substances and certain assault and battery charges, among other things.

Under the bill, MCOLES would have to revoke a license granted under Sections 9, 9a, 9b, 9c, and 9d if the individual was convicted of a misdemeanor involving domestic violence and was subject to the restrictions under Section 224f(5) of the Penal Code, which prescribes a felony punishable up to five years' imprisonment and a maximum fine of \$5,000, or both for assault and battery of an individual the person has an intimate relationship with or against a pregnant individual, and who has more previous convictions for assault and battery of those categories of individuals.

The bill would allow MCOLES to revoke a license for any of the following circumstances:

- The individual's license was granted under the Act based on MCOLES' determination that the individual could be brought into compliance with the licensing standards with additional screening, procedures, examinations, testing, or other means of verifying compliance with the licensing standards and the individual failed to comply with the means of verifying compliance with the imposed licensing standards.
- The individual was not eligible to possess, use, transport, sell, purchase, carry, ship, receive, or distribute a firearm or ammunition under State or Federal laws.

Additionally, MCOLES could revoke a license if an individual was a law enforcement officer with an active license at another law enforcement agency and the following applied:

- An employing law enforcement agency requested the activation of the individual's license under the Act.
- The Commission determined that the individual did not meet the licensing standards and denied the request of the employing law enforcement agency to activate the individual's law enforcement officer license.

The Commission also could revoke a license if the license was activated by MCOLES in accordance with the Act within 90 days of MCOLES's initiation of a revocation proceeding and the following applied:

- The Commission determined that the individual's license was activated in error, including an erroneous activation before MCOLES issued a final order determining whether the individual complied with the licensing standards.
- The Commission determined that the individual did not comply with the licensing standards and would have denied activation of the individual's license under this Act but for the error.

The bill would require MCOLES to promulgate rules governing the revocations described above.

#### Licensure Authority

Currently, an individual licensed under Section 9, 9b, 9c, and 9d must not exercise law enforcement authority if the individual's license is rendered void by court order, is revoked, rendered inactive, or rendered lapsed. The bill would delete this provision and specify that only an individual with an active license could exercise law enforcement authority.

#### MCOLES Duties

The Act allows MCOLES to cooperate with State, Federal, and local agencies to approve in-service programs and training of law enforcement officers and to promulgate rules about the in-service training and minimum courses of study. The bill would modify this provision to instead allow MCOLES to approve and promulgate rules on continuing professional education.

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This analysis was prepared by nonpartisan Senate staff for use by the Senate in its deliberations and does not constitute an official statement of legislative intent.