

Date: December 5, 2018
To: The Honorable Jim Runestad and members of the House Judiciary Committee
From: Timothy S. Bourgeois, Executive Director
Michigan Commission on Law Enforcement Standards (MCOLES)
Re: HB 6571; HB 6572 & HB 6573

The Law Enforcement Officer Separation of Service Record Act (PA 128 of 2017) sought to compel full disclosure of the reason(s) for and circumstances surrounding an MCOLES licensed officer's separation from a law enforcement agency. It compels any other law enforcement agency to obtain and consider this information to subsequently hire and re-license the individual. Use of the Act since its effective date on January 15, 2018 has revealed the need to fine tune it and two related statutes to give both PA 128 and PA 203 of 1965 (the MCOLES Act) their intended full force and effect.

HB 6571

Would exempt MCOLES from PA 381 of 1974, the Occupational License for Former Offenders Act. The MCOLES Act (PA 203 of 1965) precludes licensure of a person as a law enforcement officer who has been subject to an adjudication of guilt (including expungements and various set-asides) for any crime punishable by more than one year in prison and 7 specific serious misdemeanor offenses demonstrating a lack of character fitness. This amendment deconflicts efforts to assist otherwise eligible former offenders the opportunity to seek other types of occupational licenses under PA 381, primarily those administered by the Department of Licensing and Regulatory Affairs. The public expects a higher standard of character and conduct for those entrusted with the extraordinary powers of a law enforcement officer.

HB 6572

Would amend the Bullard-Plawecki Right to Know Act (PA 397 of 1978) to allow certain specific records maintained in an employee personnel file to be released only if they would pertain to PA 128 of 2017. These limited exceptions do not erode any other employee protections under Bullard-Plawecki.

HB 6573

Would invoke the provisions of PA 128 of 2017 upon a *conditional* offer of employment rather than an offer of employment. This distinction is important to allow a thorough background investigation required under the MCOLES Act, while remaining in compliance with the federal Americans With Disabilities Act. It would also make clear that MCOLES could request and receive information collected by a law enforcement agency under PA 128 of 2017 if necessary to make a determination for licensing under PA 203 of 1965.

PA 128 of 2017 has significantly helped to increase professionalism in law enforcement by eliminating the opportunity for officers to create separation agreements that keep their misconduct secret. These bills will continue to strengthen law enforcement agencies and MCOLES' abilities to properly screen candidates to valid employment standards for the confidence and protection of the public. MCOLES respectfully requests these amendments be passed by the Committee.