

STATE OF MICHIGAN
92ND LEGISLATURE
REGULAR SESSION OF 2004

**Introduced by Reps. Van Regenmorter, Condino, Ward, Brandenburg, Stahl, Pappageorge, Ruth Johnson,
Stakoe, Nofs and Acciavatti**

ENROLLED HOUSE BILL No. 5907

AN ACT to amend 1965 PA 203, entitled "An act to provide for the creation of the commission on law enforcement standards; to prescribe its membership, powers, and duties; to prescribe the reporting responsibilities of certain state and local agencies; to provide for additional costs in criminal cases; to provide for the establishment of the law enforcement officers training fund; and to provide for disbursement of allocations from the law enforcement officers training fund to local agencies of government participating in a police training program," by amending sections 2 and 9 (MCL 28.602 and 28.609), section 2 as amended by 2001 PA 186 and section 9 as amended by 1998 PA 237.

The People of the State of Michigan enact:

Sec. 2. As used in this act:

(a) "Certificate" means a numbered document issued by the commission to a person who has received certification under this act.

(b) "Certification" means either of the following:

(i) A determination by the commission that a person meets the law enforcement officer minimum standards to be employed as a commission certified law enforcement officer and that the person is authorized under this act to be employed as a law enforcement officer.

(ii) A determination by the commission that a person was employed as a law enforcement officer before January 1, 1977 and that the person is authorized under this act to be employed as a law enforcement officer.

(c) "Commission" means the commission on law enforcement standards created in section 3.

(d) "Contested case" means that term as defined in section 3 of the administrative procedures act of 1969, 1969 PA 306, MCL 24.203.

(e) "Executive director" means the executive director of the commission appointed under section 12.

(f) "Felony" means a violation of a penal law of this state or another state that is either of the following:

(i) Punishable by a term of imprisonment greater than 1 year.

(ii) Expressly designated a felony by statute.

(g) "Fund" means the law enforcement officers training fund created in section 13.

(h) "Law enforcement officer minimum standards" means standards established by the commission under this act that a person must meet to be eligible for certification under section 9a(1).

(i) "Law enforcement officer of a Michigan Indian tribal police force" means a regularly employed member of a police force of a Michigan Indian tribe who is appointed pursuant to former 25 CFR 12.100 to 12.103.

(j) "Michigan Indian tribe" means a federally recognized Indian tribe that has trust lands located within this state.

(k) "Multicounty metropolitan district" means an entity authorized and established pursuant to state law by 2 or more counties with a combined population of not less than 3,000,000, for the purpose of cooperative planning, promoting, acquiring, constructing, owning, developing, maintaining, or operating parks.

(l) "Police officer" or "law enforcement officer" means, unless the context requires otherwise, any of the following:

(i) A regularly employed member of a law enforcement agency authorized and established pursuant to law, including common law, who is responsible for the prevention and detection of crime and the enforcement of the general criminal laws of this state. Police officer or law enforcement officer does not include a person serving solely because he or she occupies any other office or position.

(ii) A law enforcement officer of a Michigan Indian tribal police force, subject to the limitations set forth in section 9(3).

(iii) The sergeant at arms or any assistant sergeant at arms of either house of the legislature who is commissioned as a police officer by that respective house of the legislature as provided by the legislative sergeant at arms police powers act, 2001 PA 185, MCL 4.381 to 4.382.

(iv) A law enforcement officer of a multicounty metropolitan district, subject to the limitations of section 9(7).

(v) A county prosecuting attorney's investigator sworn and fully empowered by the sheriff of that county.

(vi) Until December 31, 2007, a law enforcement officer of a school district in this state that has a membership of at least 20,000 pupils and that includes in its territory a city with a population of at least 180,000 as of the most recent federal decennial census.

(vii) A fire arson investigator from a fire department within a city with a population of not less than 750,000 who is sworn and fully empowered by the city chief of police.

(m) "Rule" means a rule promulgated pursuant to the administrative procedures act of 1969, 1969 PA 306, MCL 24.201 to 24.328.

Sec. 9. (1) The commission shall promulgate rules to establish law enforcement officer minimum standards. In promulgating the law enforcement officer minimum standards, the commission shall give consideration to the varying factors and special requirements of local police agencies. The law enforcement officer minimum standards shall include all of the following:

(a) Minimum standards of physical, educational, mental, and moral fitness that govern the recruitment, selection, appointment, and certification of law enforcement officers.

(b) Minimum courses of study, attendance requirements, and instructional hours required at approved police training schools.

(c) The rules promulgated under this section do not apply to a member of a sheriff's posse or a police auxiliary temporarily performing his or her duty under the direction of the sheriff or police department.

(d) Minimum basic training requirements that a person, excluding sheriffs, shall complete before being eligible for certification under section 9a(1).

(2) If a person's certification under section 9a(1) becomes void under section 9a(4)(b), the commission shall waive the requirements described in subsection (1)(b) for certification of the person under section 9a(1) if 1 or more of the following apply:

(a) The person has been employed 1 year or less as a commission certified law enforcement officer and is again employed as a law enforcement officer within 1 year after discontinuing employment as a commission certified law enforcement officer.

(b) The person has been employed more than 1 year but less than 5 years as a commission certified law enforcement officer and is again employed as a law enforcement officer within 18 months after discontinuing employment as a commission certified law enforcement officer.

(c) The person has been employed 5 years or more as a commission certified law enforcement officer and is again employed as a law enforcement officer within 2 years after discontinuing employment as a commission certified law enforcement officer.

(d) The person has successfully completed the mandatory training and has been continuously employed as a law enforcement officer, but through no fault of that person the employing agency failed to obtain certification for that person as required by this act.

(3) The commission shall promulgate rules with respect to all of the following:

(a) The categories or classifications of advanced in-service training programs for commission certified law enforcement officers and minimum courses of study and attendance requirements for the categories or classifications.

(b) The establishment of subordinate regional training centers in strategic geographic locations in order to serve the greatest number of police agencies that are unable to support their own training programs.

(c) The commission's acceptance of certified basic police training and law enforcement experience received by a person in another state in fulfillment in whole or in part of the law enforcement officer minimum standards.

(d) The commission's approval of police training schools administered by a city, county, township, village, corporation, college, community college or university.

(e) The minimum qualifications for instructors at approved police training schools.

(f) The minimum facilities and equipment required at approved police training schools.

(g) The establishment of preservice basic training programs at colleges and universities.

(h) Acceptance of basic police training and law enforcement experience received by a person in fulfillment in whole or in part of the law enforcement officer minimum standards prepared and published by the commission if both of the following apply:

(i) The person successfully completed the basic police training in another state or through a federally operated police training school that was sufficient to fulfill the minimum standards required by federal law to be appointed as a law enforcement officer of a Michigan Indian tribal police force.

(ii) The person is or was a law enforcement officer of a Michigan Indian tribal police force for a period of 1 year or more.

(4) Except as otherwise provided in this section, a regularly employed person employed on or after January 1, 1977 as a member of a police force having a full-time officer is not empowered to exercise all the authority of a peace officer in this state, or be employed in a position for which the authority of a peace officer is conferred by statute, unless the person has received certification under section 9a(1).

(5) A law enforcement officer employed before January 1, 1977 may continue his or her employment as a law enforcement officer and participate in training programs on a voluntary or assigned basis but failure to obtain certification under section 9a(1) or (2) is not grounds for dismissal or termination of that employment as a law enforcement officer. A person who was employed as a law enforcement officer before January 1, 1977 who fails to obtain certification under section 9a(1) and who voluntarily or involuntarily discontinues his or her employment as a law enforcement officer may be employed as a law enforcement officer if he or she was employed 5 years or more as a law enforcement officer and is again employed as a law enforcement officer within 2 years after discontinuing employment as a law enforcement officer.

(6) A law enforcement officer of a Michigan Indian tribal police force is not empowered to exercise the authority of a peace officer under the laws of this state and shall not be employed in a position for which peace officer authority is granted under the laws of this state unless all of the following requirements are met:

(a) The tribal law enforcement officer is certified under this act.

(b) The tribal law enforcement officer is 1 of the following:

(i) Deputized by the sheriff of the county in which the trust lands of the Michigan Indian tribe employing the tribal law enforcement officer are located, or by the sheriff of any county that borders the trust lands of that Michigan Indian tribe, pursuant to section 70 of 1846 RS 14, MCL 51.70.

(ii) Appointed as a police officer of the state or a city, township, charter township, or village that is authorized by law to appoint individuals as police officers.

(c) The deputation or appointment of the tribal law enforcement officer described in subdivision (b) is made pursuant to a written contract that includes terms the appointing authority under subdivision (b) may require between the state or local law enforcement agency and the tribal government of the Michigan Indian tribe employing the tribal law enforcement officer.

(d) The written contract described in subdivision (c) is incorporated into a self-determination contract, grant agreement, or cooperative agreement between the United States secretary of the interior and the tribal government of the Michigan Indian tribe employing the tribal law enforcement officer pursuant to the Indian self-determination and education assistance act, Public Law 93-638, 88 Stat. 2203.

(7) A law enforcement officer of a multicounty metropolitan district, other than a law enforcement officer employed by a law enforcement agency created under the public body law enforcement agency act, is not empowered to exercise the authority of a peace officer under the laws of this state and shall not be employed in a position for which peace officer authority is granted under the laws of this state unless all of the following requirements are met:

(a) The law enforcement officer has met or exceeded minimum standards for certification under this act.

(b) The law enforcement officer is deputized by the sheriff or sheriffs of the county or counties in which the land of the multicounty metropolitan district employing the law enforcement officer is located and in which the law enforcement officer will work, pursuant to section 70 of 1846 RS 14, MCL 51.70.

(c) The deputation or appointment of the law enforcement officer is made pursuant to a written agreement that includes terms the deputizing authority under subdivision (b) may require between the state or local law enforcement agency and the governing board of the multicounty metropolitan district employing the law enforcement officer.

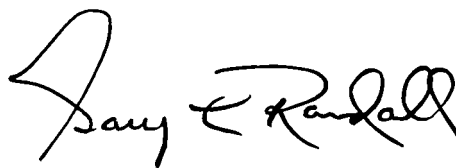
(d) The written agreement described in subdivision (c) is filed with the commission.

(8) A public body that creates a law enforcement agency under the public body law enforcement agency act and that employs 1 or more law enforcement officers certified under this act shall be considered to be a law enforcement agency for purposes of section 9d.

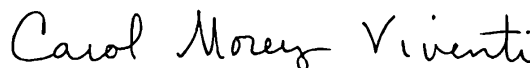
(9) The commission may establish an evaluation or testing process, or both, for granting a waiver from the law enforcement officer minimum standards regarding training requirements to a person who has held a certificate under this act and who discontinues employment as a law enforcement officer for a period of time exceeding the time prescribed in subsection (2)(a) to (c) or subsection (5), as applicable.

Enacting section 1. This amendatory act does not take effect unless House Bill No. 5906 of the 92nd Legislature is enacted into law.

This act is ordered to take immediate effect.



Clerk of the House of Representatives



Secretary of the Senate

Approved

Governor