

Senate Fiscal Agency
P. O. Box 30036
Lansing, Michigan 48909-7536

SFA

BILL ANALYSIS

Telephone: (517) 373-5383
Fax: (517) 373-1986
TDD: (517) 373-0543

House Bill 4859 (Substitute S-1 as reported)
Sponsor: Representative Larry Julian
House Committee: Criminal Justice
Senate Committee: Judiciary

CONTENT

The bill would amend the Public Health Code to provide that the Records and Identification Division of the Department of State Police would have to furnish a nonpublic record of arrest and discharge or dismissal for certain controlled substance violations to the Department of Corrections (DOC) or a law enforcement agency when the record applied to a DOC or agency employee or applicant.

Under the Code, when an individual who has not previously been convicted of a controlled substance offense pleads guilty to or is found guilty of certain drug offenses, the court may defer further proceedings and place the individual on probation. Upon fulfillment of the terms and conditions of probation, the court must discharge the individual and dismiss the proceedings. This provision applies to possession of less than 25 grams of any mixture containing a Schedule 1 or 2 narcotic or cocaine; possession of either methamphetamine or certain Schedule 1, 2, 3, or 4 controlled substances; possession of LSD, peyote, mescaline, dimethyltryptamine, psilocyn, psilocybin, a Schedule 5 controlled substance, or marihuana; use of a controlled substance or controlled substance analogue unless it was obtained directly from, or pursuant to, a valid prescription or order of a physician; and possession or use of an imitation controlled substance for a second time. An individual may receive only one discharge and dismissal under this provision.

The Records and Identification Division must retain a nonpublic record of an arrest and discharge or dismissal under this provision. The bill would require that the record be furnished to the Department of Corrections or a law enforcement agency, upon the request of the DOC or the agency, subject to the following conditions: 1) at the time of the request, the individual was an employee of the DOC or the law enforcement agency or was an applicant for employment; 2) if the individual were a DOC or law enforcement agency employee, the date on which the court placed the individual on probation occurred after the bill's effective date; and 3) the DOC or law enforcement agency would use the record only to determine whether an employee had violated his or her conditions of employment or whether an applicant met criteria for employment.

MCL 333.7411

Legislative Analyst: Patrick Affholter

FISCAL IMPACT

The bill would have no fiscal impact on State or local government.

Date Completed: 2-14-02

Fiscal Analyst: Bruce Baker
Bethany Wicksall