

Police—Employment Separation Records

Introduction

The Law Enforcement Officer Separation of Service Record Act, PA 128 of 2017, took effect on January 15, 2018. The intent of the Act is to help ensure law enforcement agencies are doing their due diligence in the hiring process and that misconduct is not overlooked if an officer leaves one police department and applies for a job with another.

Requirements

- 1) A law enforcement agency shall create and maintain a Separation of Service Record documenting the reasons for, and circumstances surrounding, a law enforcement officer's separation of service from that agency;
- 2) An agency must allow a separating officer to review their Separation of Service Record upon request and, should the officer disagree with it, allow the officer to request a correction or removal of the portion the officer believes to be incorrect. If no agreement can be reached, the officer may submit a written statement explaining their position and the basis for the disagreement. The officer's written statement must become part of their Separation of Service Record;
- 3) A law enforcement officer is required to sign the MCOLES Waiver & Authorization for Release of Information form, allowing a former employing agency or agencies to provide the prospective employing agency with a copy of the officer's Separation of Service Record;
- 4) A former employing agency shall give a copy of an officer's Separation of Service Record to a prospective employing agency, upon receiving a valid waiver and release;
- 5) A prospective employing agency must receive records prior to hiring a law enforcement officer regarding the reason or reasons for, and circumstances surrounding that officer's separation of service from each prior employing law enforcement agency. A hiring law enforcement agency shall not hire an officer unless it has received the officer's Separation of Service Records.

The Act also provides that a former employing agency which discloses information in good faith after receiving a valid waiver and release will be immune from civil liability for the disclosure unless a preponderance of evidence shows the information was false or misleading or was disclosed with a reckless disregard for the truth, or the disclosure was prohibited by state or federal statute.

It is important to understand that the Separation of Service Record is different from a Separation Affidavit. A Separation Affidavit is the document a former employer submits to MCOLES within three business days of an officer's separation from employment. The Separation of Service Record remains with the former employer unless and until a prospective employer requests a copy and provides a signed Waiver & Authorization for Release—or it is required by MCOLES or otherwise allowed by law.

Tim Bourgeois, Executive Director of MCOLES, states, "If we want to be recognized as a profession, we must act in a professional way. Professionals self-regulate. Just one of the ways to do that is to conduct comprehensive background investigations, including full compliance with all our responsibilities under PA 128 of 2017. It is good for your agency, our profession, and required by law."

Information in this publication was provided by Matt Heins, the MML Risk Management program's police and fire loss control specialist