



MCOLES

Michigan Commission on Law Enforcement Standards

Commission Resolution 2018-04 Resolution Delegating Authority to the Executive Director and Authorizing Delegation of Tasks to MCOLES Staff

WHEREAS, Section 12 of the Michigan Commission on Law Enforcement Standards Act, MCL 28.612, provides in relevant part that the “executive director shall perform the functions and duties that are assigned to him or her by the commission”; and

WHEREAS, Section 2(b) of the Act, MCL 28.602(b), contemplates that the Commission will, by “express delegation” confer the authority to perform statutory functions on the Executive Director and MCOLES Staff; and

WHEREAS, Section II B of Executive Order 2001-5, MCL 28.621, provides in relevant part that the MCOLES Executive Director shall “administer the assigned functions transferred by this Order in such ways as to promote efficient administration and shall make internal organizational changes as may be administratively necessary to complete the realignment of responsibilities prescribed by this Order”; and

WHEREAS, Section I B of Executive Order 2001-5 describes the assigned functions transferred by the Order to include those in the Michigan Commission on Law Enforcement Standards Act and the Michigan Justice Training Fund Commission Act; and

WHEREAS, in the context of an Executive Order, Attorney General Opinion Number 4479, OAG, 1965-1966, No 4479, p 209 (March 9, 1966), describes the term “administer” to mean “manage the affairs of,” “direct or superintend the execution, use, or conduct of,” and “review all the acts of subordinates, and to correct, or direct a correction of, any errors committed by them.”

WHEREAS, in addition to the statutory authority conferred in the aforementioned statutes and Executive Order, additional functions are conferred upon the Commission by the Michigan Public Safety Officers Benefit Act, MCL 28.631 *et seq.*, the Michigan Retired Law Enforcement Officer’s Firearm Carry Act, MCL 28.511 *et seq.*, and Chapter III of the Michigan Code of Criminal Procedure, MCL 763.11; and

WHEREAS, to ensure that the Executive Director has governmental immunity protections, it is necessary to confirm that he is acting within the scope of his authority as defined by law; and


WHEREAS, attached to and incorporated into this Resolution is a description of all of the statutory functions for which the Michigan Commission on Law Enforcement Standards is

responsible, organized according to the statutes from which they originate, and numbered from 1 through 97:

THEREFORE, BE IT RESOLVED THAT:

1. The Commission expressly delegates to the MCOLES Executive Director the authority to administer the statutory functions described in the attachment, excluding the following:
 - a. Functions 10-11, pertaining to appointment of and delegation of function to the MCOLES Executive Director;
 - b. Function 12, pertaining to expenditures of portions of the Secondary Road Patrol and Training Fund for fiscal years that have transpired;
 - c. Functions 23 and 24, pertaining to assessment of fees for screening, enrolling, evaluating, and testing candidates for licensure and assessment of fees for issuance of licenses;
 - d. Functions 28-32, pertaining to Commission meeting functions authorized by vote of the Commission;
 - e. Functions 33-58, pertaining to administrative rule promulgation under the Michigan Commission on Law Enforcement Standards Act;
 - f. Function 64, pertaining to issuance of Justice Training Fund grants;
 - g. Function 69, pertaining to administrative rule promulgation under the Michigan Justice Training Fund Act; and
 - h. Function 74, pertaining to issuance of Justice Training Fund grants.
2. This delegation does not otherwise prohibit the Commission from exercising its statutory function under Section 12 of the Michigan Commission on Law Enforcement Standards Act, MCL 28.612, to require the MCOLES Executive Director to “perform the functions and duties that are assigned to him or her by the commission.”
3. This delegation authorizes the MCOLES Executive Director to delegate tasks to MCOLES staff as necessary to ensure performance of MCOLES statutory functions, as contemplated in Section 2(b) of the Michigan Commission on Law Enforcement Standards Act, MCL 28.602(b).

Adopted by the Michigan Commission on Law Enforcement Standards on April 11, 2018.



Michael Wendling, Chair