

**SENATE FISCAL AGENCY
MEMORANDUM**



DATE: May 7, 2021
TO: Members of the Michigan Senate
FROM: Bruce Baker, Senior Fiscal Analyst
RE: Executive Order 2021-4

Executive Order 2021-4

On April 2, 2021, Governor Whitmer issued Executive Order (EO) 2021-4 to create the Task Force on Forensic Science within the Department of State Police (MSP). The Task Force will act to review, advise, and make recommendations to the Governor and the Director of the MSP on the use of forensic science in Michigan.

Article V, Section 1 of the Michigan Constitution states that the power of the executive is vested in the Governor. Article V, Section 8 of the Michigan Constitution grants the Governor supervisory authority over each principal department of State government. The establishment of the Task Force on Forensic Science is not subject to legislative disapproval, and the order creating it was effective on the date it was filed, April 2, 2021.

Creation of the Task Force on Forensic Science

Executive Order 2021-4 creates the Task Force on Forensic Science within the MSP. The Task Force must consist of 11 members who serve at the pleasure of the Governor. Membership must include the Director of the MSP, the Director of MSP's Forensic Science Division, one public defender or criminal defense attorney, one prosecuting attorney, one board certified pathologist, one county forensic science practitioner, two forensic science practitioners with at least five years' experience, two individuals from the private sector or a university who each have earned a doctoral degree and published scholarship related to forensic science, and one individual from the private sector or university who has published scholarship related to cognitive bias. The Attorney General (or his or her designee from the Department of Attorney General) and a circuit court judge designated by the Chief Justice of the Michigan Supreme Court may participate on the Task Force. Four members of the House and Senate, designated by the Senate Majority Leader, Senate Minority Leader, Speaker of the House of Representatives, and Minority Leader of the House, respectively, also may participate as nonvoting ex officio members of the Task Force. Vacancies must be filled in the same manner as the original appointment and the Governor must name a chairperson of the Council

Charge of the Task Force

The Task Force must act in an advisory capacity to the Governor and Director of the MSP and review forensic science in the State. The Task Force must develop findings and policy recommendations to be contained in a final report due by December 31, 2021. The Task Force may develop recommendations on any of the following:

- Improving the practice, delivery, and use of forensic science.
- Strengthening forensic science methodologies and practices.
- Statewide protocols for disclosure of negligence or misconduct by employees at forensic science providers.
- A process allowing members of the public to report alleged professional negligence or misconduct related to the practice or use of forensic science.

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- Best practices for those who practice or apply forensic science in the criminal justice system.
- Procedures for updating stakeholders on developments on developments in forensic science.
- Post-conviction notification procedures to notify parties affected by misconduct, negligence, or misapplication of forensic science.

The Task Force also may provide other information or advice or take other actions as requested by the Governor. The Task Force will be terminated upon completion of its final report or on December 31, 2021, whichever is earlier.

Task Force Operations

The MSP will staff and assist the Task Force and will provide any budget, procurement, or other management functions necessary to perform the Task Force's objectives. The Task Force must adopt procedures consistent with Michigan law and may select from among its members a vice chairperson and secretary. A majority of the members serving constitutes a quorum, and the Task Force must act by a majority of its voting members.

The Task Force may establish advisory workgroups, conduct investigations, hold hearings, consult with outside experts. The Task Force also may hire or retain contractors or consultants as determined by the MSP. The Task Force may accept donations of labor, services, or other things of value from public or private agencies or people in accordance with law. Members of the Task Force must refer all legal, legislative, and media contacts that involve its work to the MSP.

Types of Transfers

The creation of the Advisory Council does not involve a Type I, II, or III transfer as identified under the Executive Organization Act.

Fiscal Impact

The MSP will incur the costs for staff or support that is provided to the Task Force. Members of the Task Force will serve without compensation; however, they may be reimbursed for necessary travel and expenses consistent with current law, rules, and procedures, and subject to available funding. The typical annual costs to support an advisory committee can range from \$10,000 to \$200,000 depending on membership travel expenses and staffing demands. As mentioned, the costs will be determined by demand and available funding within the MSP. Accordingly, there is no anticipated need for additional funding.

Summary

Executive Order 2021-4 creates the Task Force in Forensic Science within the MSP. The Task Force will act in an advisory capacity to the Governor and Director of the MSP to review and make recommendations concerning forensic science in the State. The EO that created the Task Force was effective on the date it was filed, April 2, 2021. The Task Force will dissolve on completion of its final report or on December 31, 2021, whichever is sooner.

If you have any questions on EO 2021-4, please do not hesitate to contact me.

/mh

c: Christopher Harkins, Director
Steve Angelotti, Associate Director