

1 SB189  
2 126810-2  
3 By Senators Brooks and Glover  
4 RFD: Judiciary  
5 First Read: 09-MAR-11

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4 ENGROSSED

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7 A BILL  
8 TO BE ENTITLED  
9 AN ACT

10  
11 Relating to internal investigations or complaints  
12 made against law enforcement officers employed by state or  
13 municipal law enforcement agencies; to require those agencies  
14 to establish and publish written standards and procedures for  
15 the completion of internal investigations; to require that  
16 every law enforcement agency distribute a copy of the approved  
17 procedures to every law enforcement officer employed by that  
18 agency.

19 BE IT ENACTED BY THE LEGISLATURE OF ALABAMA:

20 Section 1. The following definitions shall apply to  
21 this act:

22 (1) APPEAL. A review of the initial internal  
23 investigation and hearing of a complaint by a law enforcement  
24 agency.

25 (2) COMMISSION. The Alabama Peace Officers'  
26 Standards and Training Commission established under Section  
27 36-21-41 of the Code of Alabama 1975.

1           (3) COMPLAINT. An allegation made verbally or in  
2 writing of wrongdoing or improper conduct by a law enforcement  
3 officer, or an allegation of violation of the department,  
4 agency, board, or an appointing authority's rules or  
5 directives. The term includes all allegations of whatever kind  
6 accusing the law enforcement officer of professional  
7 misconduct, improper conduct, negligent acts or omissions, or  
8 any other violation of policy, procedure, rule, or other  
9 established practice of the law enforcement agency. The term  
10 does not include an allegation or accusation of a crime or  
11 criminal activity on the part of the law enforcement officer.

12           (4) HEARING. The initial formal hearing conducted by  
13 the law enforcement agency to determine the truth or substance  
14 of the allegation lodged against the law enforcement officer  
15 and to determine the issues and merits of the complaint. A  
16 written record of the hearing will be made after the  
17 completion of every hearing conducted.

18           (5) INTERNAL INVESTIGATION. An administrative  
19 investigation that is conducted by the department, agency,  
20 board, or appointing authority of one of the agency's own law  
21 enforcement officers concerning the complaint, as defined in  
22 subdivision (3). The term internal investigation specifically  
23 excludes any investigation of a crime or suspected criminal  
24 activity on the part of the employee. An internal  
25 investigation does not include an investigation that is  
26 conducted externally by that agency, nor does the term include  
27 any investigation made by an agency that does not employ or

1 directly supervise the law enforcement officer who is the  
2 subject of the investigation. An initial investigation  
3 conducted by a law enforcement agency may be concluded in the  
4 officer's favor if the agency makes a finding of no wrongdoing  
5 or misconduct, or no violation of any policy, procedure, rule,  
6 or established practice of the law enforcement agency.

7 (6) LAW ENFORCEMENT AGENCY. Every law enforcement  
8 agency of state government, except the department of Public  
9 Safety, and every municipal law enforcement agency. The  
10 sheriff of each county and all deputy sheriffs employed by the  
11 sheriff and the Department of Public Safety are specifically  
12 excluded from this act. The term law enforcement agency of the  
13 State of Alabama includes all sworn officers of the state  
14 Alcoholic Beverage Control Board, all sworn officers of the  
15 Enforcement Division of the Department of Conservation and  
16 Natural Resources, all sworn officers employed by the Public  
17 Service Commission, all sworn officers employed by the Board  
18 of Pardons and Paroles, and all other full-time employees of  
19 the State of Alabama who are charged with law enforcement  
20 duties and the power to make arrests and investigate criminal  
21 offenses.

22 (7) LAW ENFORCEMENT OFFICER. A municipal police  
23 officer, state investigator, and all other state law  
24 enforcement officers holding the power to make arrests and  
25 investigate criminal offenses, provided that such person has  
26 completed the requirements for certification by the Alabama  
27 Peace Officers' Standards and Training Commission and holds a

1 current and valid APOSTC certificate. This term does not  
2 include any person who is serving a probationary period. This  
3 term specifically excludes all sheriffs and deputy sheriffs.

4 Section 2. Every law enforcement agency, except  
5 county sheriff offices, and the Department of Public Safety  
6 shall establish and publish written procedures for  
7 administrative or disciplinary purposes, or both, for the  
8 conduct and process of the initial investigation hearing on  
9 the merits of the complaint, and the appeal of an adverse  
10 decision by the law enforcement agency following any hearing  
11 on the complaint.

12 Section 3. The following requirements must be  
13 contained in any written procedure adopted pursuant to this  
14 act:

15 (1) At the time a law enforcement officer is  
16 initially questioned regarding a complaint as defined by this  
17 act, the law enforcement officer shall be notified in writing  
18 of the nature and substance of the complaint and the name of  
19 the complainant, if known. If there is no compelling reason to  
20 keep the name of the complainant confidential, the name of the  
21 complainant shall be provided to the law enforcement officer.

22 (2) If during the course of the investigation of an  
23 internal complaint, information is determined or provided that  
24 reasonably indicates the law enforcement officer may have  
25 committed a crime or engaged in criminal conduct, the criminal  
26 investigation may be investigated concurrently with the  
27 administrative investigation and the outcome of the

1 administrative investigation may be deferred until the  
2 criminal investigation is completed or terminated.

3 (3) A law enforcement officer may be suspended with  
4 pay or placed on mandatory leave or assigned alternative  
5 duties with compensation pending the conclusion of any  
6 internal investigation in accordance with existing policies  
7 and procedures of the appointing authority, agency, or  
8 department.

9 (4) Prior to the commencement of an administrative  
10 investigation, the law enforcement officer shall be advised of  
11 his or her legal rights pertaining to the proposed  
12 administrative investigation, including, but not limited to:

13 a. The law enforcement officer's right to employ  
14 legal counsel and have legal assistance during the  
15 administrative investigation.

16 b. The law enforcement officer's right to have legal  
17 counsel present at all phases of the administrative  
18 investigation, including any questioning conducted by the  
19 agency.

20 c. The law enforcement officer's right to appeal any  
21 administrative or disciplinary action or finding of the  
22 agency.

23 (5) Procedural rules for the administrative hearing  
24 shall be in writing and a full copy of the established  
25 procedure shall be provided to the employee not less than  
26 seven days prior to the administrative hearing. Rules of

1 evidence and rules of discovery shall not apply to  
2 administrative hearings conducted under this act.

3 (6) In the event of an adverse finding or action  
4 against the law enforcement officer, an appeal process must be  
5 provided by the reviewing authority within the law enforcement  
6 agency that meets or exceeds the procedural due process  
7 requirements established under Section 11-43-230 of the Code  
8 of Alabama 1975. The appeals process must include essential  
9 due process for the law enforcement officer, provide notice of  
10 the steps the law enforcement officer must take to post an  
11 appeal, and provide a time and place for an appeal to be  
12 considered. The appeal process shall provide for an impartial  
13 officer or body to consider the appeal and render a decision.  
14 The appeal process shall also provide the law enforcement  
15 officer with the right to be represented by counsel and an  
16 opportunity to present evidence, cross-examine witnesses, and  
17 offer testimony on the employee's behalf.

18 Section 4. (a) Every law enforcement agency, as  
19 defined by this act, conducting an internal investigation of  
20 any law enforcement officer employed by that agency shall  
21 complete the investigation within 90 days following the filing  
22 of the complaint against the law enforcement officer, unless  
23 the time is extended for any of the following reasons:

24 (1) By agreement of both parties.

25 (2) The agency requires additional time for a valid  
26 reason specified by the agency. In no event shall the total  
27 time exceed 60 days beyond the original 90-day time period.

1                   (3) A law enforcement agency may extend the time  
2 allotted if during the initial investigation, newly discovered  
3 evidence is found or additional evidence is provided, that  
4 changes the nature and the scope of the original  
5 investigation.

6                   (b) Nothing in this section is intended to alter or  
7 amend any statute of limitations that is otherwise established  
8 by law for any civil or criminal charge brought against the  
9 law enforcement officer.

10                   Section 5. Upon the establishment of its internal  
11 investigation procedure pursuant to this act, every law  
12 enforcement agency shall make a copy of the procedure  
13 available to all law enforcement officers employed by the  
14 agency for their review.

15                   Section 6. This act shall become effective on the  
16 first day of the third month following its passage and  
17 approval by the Governor, or its otherwise becoming law.



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Senate

Read for the first time and referred to the Senate  
committee on Judiciary..... 09-MAR-11

Read for the second time and placed on the calen-  
dar..... 24-MAR-11

Read for the third time and passed as amended .... 05-MAY-11

Yeas 20  
Nays 8

Patrick Harris  
Secretary