

1 HB411
2 207964-1
3 By Representatives McCampbell and Rafferty
4 RFD: Public Safety and Homeland Security
5 First Read: 11-FEB-21

8 SYNOPSIS: This bill would create a Law Enforcement
9 Officer Employment Database for implementation and
10 maintenance by the Alabama Peace Officers'
11 Standards and Training Commission.

12 This bill would require law enforcement
13 agencies to report certain complaints, disciplinary
14 actions, and background information of law
15 enforcement officers to the Alabama Peace Officers'
16 Standards and Training Commission.

17 This bill would provide civil penalties for
18 law enforcement agencies that fail to report
19 certain activities of law enforcement officers.

20 This bill would provide that information in
21 the database is confidential and would provide
22 criminal penalties for unauthorized access to the
23 database.

24 This bill would also require former
25 employers of law enforcement officers to give full
26 disclosure of an officer's employment history in
27 the event that another law enforcement agency in

1 this state requests the information and would
2 provide immunity for disclosures made in good
3 faith.

4 This bill would require that prior to
5 employment, law enforcement agencies must complete
6 and submit a full background check on law
7 enforcement officers to the Alabama Peace Officers'
8 Standards and Training Commission.

9 This bill would require the Alabama Peace
10 Officers' Standards and Training Commission to
11 collect and maintain data related to the
12 pre-employment check.

13 This bill would outline the requirements for
14 a pre-employment check and who is authorized to
15 obtain the information.

16 This bill would provide criminal penalties
17 for the release or disclosure of any information
18 received from the pre-employment check to any
19 individual not authorized to receive it.

20 This bill would also create civil immunity
21 for any responsible agency that discloses
22 information for the purposes for which it is
23 authorized.

24 Amendment 621 of the Constitution of Alabama
25 of 1901, now appearing as Section 111.05 of the
26 Official Recompilation of the Constitution of
27 Alabama of 1901, as amended, prohibits a general

1 law whose purpose or effect would be to require a
2 new or increased expenditure of local funds from
3 becoming effective with regard to a local
4 governmental entity without enactment by a 2/3 vote
5 unless: it comes within one of a number of
6 specified exceptions; it is approved by the
7 affected entity; or the Legislature appropriates
8 funds, or provides a local source of revenue, to
9 the entity for the purpose.

10 The purpose or effect of this bill would be
11 to require a new or increased expenditure of local
12 funds within the meaning of the amendment. However,
13 the bill does not require approval of a local
14 governmental entity or enactment by a 2/3 vote to
15 become effective because it comes within one of the
16 specified exceptions contained in the amendment.

17
18 A BILL
19 TO BE ENTITLED
20 AN ACT

21
22 Relating to law enforcement; to require the Alabama
23 Peace Officers' Standards and Training Commission to create a
24 database of certain information relating to law enforcement
25 officers; to provide that information in the database is
26 confidential; to provide for criminal penalties for
27 unauthorized disclosure; to require former law enforcement

1 employers to disclose information to another law enforcement
2 agency for purposes of employment of law enforcement officers;
3 to provide immunity for certain disclosures; to require law
4 enforcement agencies, prior to employment, to conduct and
5 complete a pre-employment check of a law enforcement officer;
6 to require the Alabama Peace Officers' Standards and Training
7 Commission to collect and maintain any data relating to the
8 pre-employment check; to provide penalties for violations; and
9 in connection therewith would have as its purpose or effect
10 the requirement of a new or increased expenditure of local
11 funds within the meaning of Amendment 621 of the Constitution
12 of Alabama of 1901, now appearing as Section 111.05 of the
13 Official Recompilation of the Constitution of Alabama of 1901,
14 as amended.

15 BE IT ENACTED BY THE LEGISLATURE OF ALABAMA:

16 Section 1. For the purpose of this act, the
17 following terms shall have the following meanings:

18 (1) DISCIPLINARY ACTION. Any formal corrective
19 action or reprimand, concerning any misconduct, rule
20 violation, or other job related behavior.

21 (2) LAW ENFORCEMENT AGENCY. A state department,
22 county sheriff's department, municipal police department, or
23 any other public agency or entity employing law enforcement
24 officers located within the state.

25 (3) LAW ENFORCEMENT OFFICER. An officer employed by
26 the state, or a county or municipality who is certified by the

1 Alabama Peace Officers' Standards and Training Commission and
2 who has the power of arrest.

3 Section 2. (a) (1) By October 1, 2023, the Alabama
4 Peace Officers' Standards and Training Commission shall
5 develop, implement, and maintain a centralized and electronic
6 Law Enforcement Officer Employment Database. The database
7 shall include, but shall not be limited to, all of the
8 following:

9 a. Any information relating to any disciplinary
10 action taken by a law enforcement agency against a law
11 enforcement officer.

12 b. Any information and explanation relating to the
13 separation of a law enforcement officer from a law enforcement
14 agency.

15 c. Any use of force complaints or allegations, as
16 well as final determinations regarding the complaint or
17 allegation, made against a law enforcement officer.

18 d. Any criminal background or pre-employment
19 information collected by a law enforcement agency.

20 e. The results of a psychiatric evaluation that has
21 been approved by the Alabama Peace Officers' Standards and
22 Training Commission.

23 (2) The database shall have a uniform document for
24 law enforcement agencies to use in the electronic reporting
25 and uploading of the information required in subdivision (1).
26 The database shall also have the ability to upload explanatory

1 or supporting documents prepared by applicants and submitted
2 to law enforcement agencies.

3 (3) The commission shall ensure that the database is
4 compatible with any federal database, implemented for purposes
5 of law enforcement, by the Attorney General of The United
6 States or other entity as directed by federal law or order.

7 (4) The commission may contract with a third party
8 for the development of the database. The database shall be
9 designed for access by all law enforcement agencies in the
10 state.

11 (b) (1) Within seven days of imposing disciplinary
12 action against a law enforcement officer, a law enforcement
13 agency shall submit the disciplinary action or information to
14 the commission electronically through the uniform document
15 referenced in subdivision (a) (2) for entry into the database.

16 (2) Within 30 days of receipt of any use of force
17 allegation or complaint against a law enforcement officer, a
18 law enforcement agency shall submit information relating to
19 the allegation or complaint to the commission electronically,
20 through the uniform document referenced in subdivision (a) (2)
21 for entry into the database. Within 30 days of a final
22 determination regarding an allegation or complaint, a law
23 enforcement agency shall also submit the final determination
24 and any disciplinary action to the commission electronically,
25 through the uniform document referenced in subdivision (a) (2)
26 for entry into the database.

1 (3) Within seven days of the separation of a law
2 enforcement officer from a law enforcement agency, a law
3 enforcement agency shall report the separation to the
4 commission on the commission form referenced in subdivision
5 (a)(2) for entry into the database.

6 (4) A law enforcement agency shall preserve and
7 maintain any information that is required to be reported under
8 this section.

9 (c) Information maintained in the database shall be
10 confidential and may only be disclosed as provided in this act
11 pursuant to a court order. In no instance may the information
12 be disclosed pursuant to public records requests under Section
13 36-12-40, Code of Alabama 1975. A person who knowingly
14 discloses information in the database without authorization or
15 in violation of this section shall be guilty of a Class A
16 misdemeanor.

17 (d) Any employee of the commission or a law
18 enforcement agency shall be immune from civil or criminal
19 liability for the good faith transmittal to, entry in, or use
20 of information in the database for the purposes of employment.

21 (e) For the purpose of evaluation of candidates for
22 employment as a law enforcement officer with a law enforcement
23 agency, a law enforcement agency shall access the information
24 contained in the database.

25 (f) The commission may adopt rules for the
26 implementation and administration of this act.

1 Section 3. (a) Any law enforcement agency that is a
2 potential employer of a law enforcement officer shall request,
3 through the database from the commission, either in writing or
4 electronically, a full disclosure or explanation of the law
5 enforcement officer's employment history in law enforcement.

6 (b) In the event that the database does not include
7 information on the law enforcement officer, any former law
8 enforcement agency that employed the law enforcement officer,
9 upon receiving a written request from an employing law
10 enforcement agency in this state, shall disclose a full and
11 fair description of the former law enforcement officer's
12 employment history with that agency to include the information
13 set forth in subsection (b) of Section 2.

14 (c) Information disclosed pursuant to subsection (b)
15 shall only be used for employment decisions, and the law
16 enforcement agency receiving the disclosures shall maintain
17 the confidentiality of the employment information.

18 (d) An individual acting on behalf of a law
19 enforcement agency shall be immune from civil liability for
20 disclosing information about a formerly employed law
21 enforcement officer as required in this section, if that
22 disclosure was made in response to a proper request and is
23 factually truthful.

24 Section 4. (a) Prior to the initial employment of a
25 law enforcement officer, a law enforcement agency shall
26 complete a full and complete pre-employment check of an
27 officer and submit the information through the database to the

1 commission. The database shall feature a uniform document,
2 created by the commission that allows law enforcement agencies
3 to report pre-employment check information that is required in
4 this subsection to the commission for electronic input into
5 the database. For purposes of this section, a pre-employment
6 check shall include the following:

7 (1) A fingerprint-based state and national criminal
8 background check that shall be completed and submitted to the
9 Alabama Peace Officers' Standards and Training Commission by
10 the Alabama State Law Enforcement Agency (ALEA) for purposes
11 of determining the applicant's suitability for employment.

12 (2) The current and prior employment history of the
13 law enforcement officer confirmed by telephone or electronic
14 or other means.

15 (3) A review of transcripts, disciplinary records,
16 and educational references of the schools and other
17 educational institutions attended by the law enforcement
18 officer after high school provided by the law enforcement
19 officer.

20 (4) A full report of the law enforcement officer's
21 credit history provided by the law enforcement officer.

22 (5) A review of current and previous residential
23 addresses of the law enforcement officer, provided by the law
24 enforcement officer, from 16 years of age.

25 (6) A review of court findings of the law
26 enforcement officer's mental instability.

1 (7) A review of any terminations of the law
2 enforcement officer from any previous employment.

3 (8) A review of disciplinary action taken against
4 the law enforcement officer while in secondary and
5 postsecondary school confirmed by telephone or electronic or
6 other means.

7 (9) A review of available social media accounts of
8 the law enforcement officer.

9 (10) A review of professional references provided by
10 the law enforcement officer.

11 (b) A law enforcement officer shall sign a written
12 release authorizing a law enforcement agency to obtain
13 pre-employment check information listed in subsection (a).

14 (c) Any law enforcement officer who, in bad faith,
15 fails to provide accurate information shall be subject to
16 disciplinary action by a law enforcement agency, including but
17 not limited to, denial of employment or termination of
18 employment.

19 (d) A law enforcement agency shall complete a
20 thorough investigation validating the truth of the information
21 provided by the applicant.

22 (e) Upon receipt of an authorized request and
23 payment from a law enforcement agency, ALEA shall promptly
24 conduct the fingerprint-based state and national criminal
25 background check and return the results to the commission.

26 (f) (1) Results of the criminal background check
27 received by the hiring law enforcement agency and the

1 commission shall be confidential and may not be deemed a
2 public record nor disclosed to any individual beyond those
3 with authorized access.

4 (2) The employing law enforcement agencies and the
5 commission shall comply with rules of ALEA and the Federal
6 Bureau of Investigation regarding the use of criminal records.
7 Any person who releases or discloses records in violation of
8 these rules or subdivision (1), upon conviction, shall be
9 guilty of a Class A misdemeanor.

10 (g) Upon completion of a pre-employment check, all
11 information received shall be provided to the commission
12 through the uniform document by the hiring law enforcement
13 agency.

14 (h) The employing law enforcement agency, the
15 commission, or any employee thereof acting reasonably is not
16 responsible for the accuracy of information provided pursuant
17 to this section nor shall they be liable for defamation,
18 invasion of privacy, negligence, or any other claim relating
19 to or arising from the dissemination of information pursuant
20 to this section.

21 (i) The commission shall adopt rules to implement
22 and administer this section.

23 Section 5. (a) The Alabama Peace Officers' Standards
24 and Training Commission shall randomly audit law enforcement
25 agencies' compliance with the reporting requirements under
26 Sections 2 and 4.

1 (b) (1) If the commission determines that a law
2 enforcement agency is not in compliance with the reporting
3 requirements under Sections 2 and 4, the commission may assess
4 a civil penalty against the agency in the amount of one
5 thousand dollars (\$1,000) for each violation and an additional
6 one hundred dollars (\$100) thereafter for each day the
7 information is not reported to the commission for entry into
8 the database.

9 (2) If the commission determines that the law
10 enforcement agency made a good-faith effort to report the
11 information as required under Sections 2 and 4, or that
12 non-compliance was due to a technical error, the commission
13 may waive the assessment of any civil penalty.

14 (3) Any civil penalties collected by the commission
15 under this subsection shall be deposited into the Alabama
16 Peace Officers' Standards and Training Fund to be used by the
17 commission for the implementation and enforcement of this act.

18 (c) The commission may adopt rules relating to the
19 audit and assessment, collection, or waiver of civil penalties
20 as provided in this section.

21 Section 6. Although this bill would have as its
22 purpose or effect the requirement of a new or increased
23 expenditure of local funds, the bill is excluded from further
24 requirements and application under Amendment 621, now
25 appearing as Section 111.05 of the Official Recompilation of
26 the Constitution of Alabama of 1901, as amended, because the

1 bill defines a new crime or amends the definition of an
2 existing crime.

3 Section 7. This act shall become effective on the
4 first day of the third month following its passage and
5 approval by the Governor, or its otherwise becoming law.