

1 HB411
2 211427-9
3 By Representatives McCampbell and Rafferty
4 RFD: Public Safety and Homeland Security
5 First Read: 11-FEB-21

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2 ENROLLED, An Act,

3 Relating to law enforcement; to require the Alabama
4 Peace Officers' Standards and Training Commission to create a
5 database of certain information relating to law enforcement
6 officers; to provide that the information in the database is
7 confidential; to provide for criminal penalties for
8 unauthorized disclosure; to require former law enforcement
9 employers to disclose information to another law enforcement
10 agency for purposes of employment or appointment of law
11 enforcement officers; to provide immunity for certain
12 disclosures; to require law enforcement agencies, prior to
13 employment or appointment, to conduct and complete a
14 pre-employment check of a law enforcement officer; to require
15 the Alabama Peace Officers' Standards and Training Commission
16 to collect and maintain any data relating to the
17 pre-employment check; to provide penalties for violations; and
18 in connection therewith to have as its purpose or effect the
19 requirement of a new or increased expenditure of local funds
20 within the meaning of Amendment 621 of the Constitution of
21 Alabama of 1901, as amended by Amendment 890, now appearing as
22 Section 111.05 of the Official Recompilation of the
23 Constitution of Alabama of 1901, as amended.

24 BE IT ENACTED BY THE LEGISLATURE OF ALABAMA:

1 Section 1. For the purposes of this act, the
2 following terms have the following meanings:

3 (1) DISCIPLINARY ACTION. Any formal corrective
4 action resulting in a recommendation of reprimand, suspension,
5 or termination based on a use of force complaint, as defined
6 in this section, or investigation, and which is deemed final
7 after the conclusion of any and all appeals or avenues of
8 appellate review in the underlying disciplinary proceeding.

9 (2) LAW ENFORCEMENT AGENCY. A state department,
10 sheriff, municipal police department, or any other ~~public~~
11 agency or entity employing or appointing law enforcement
12 officers located within the state.

13 (3) LAW ENFORCEMENT OFFICER. An officer employed or
14 appointed by the state, or a sheriff or municipality who is
15 certified by the Alabama Peace Officers' Standards and
16 Training Commission and who has the power of arrest.

17 (4) REASSIGNMENT FOR CAUSE. The decision of a law
18 enforcement agency to modify a law enforcement officer's
19 assignment, job responsibilities, title, or compensation, in
20 response to a use of force complaint, as defined in this
21 section, or investigation that causes a law enforcement agency
22 to deem the reassignment of a law enforcement officer
23 necessary.

24 (5) REPORTABLE OFFENSE. Any disciplinary action,
25 reassignment for cause, reportable separation, or use of force

1 complaint, as defined in this section, filed against a law
 2 enforcement officer.

3 (6) REPORTABLE SEPARATION. The separation of a law
 4 enforcement officer from a law enforcement agency, including a
 5 resignation ~~under suspicion~~ pending investigation, a
 6 resignation agreed upon by the law enforcement officer and the
 7 law enforcement agency after the filing of a complaint, or a
 8 resignation during an open investigation involving the law
 9 enforcement officer.

10 ~~(7) USE OF FORCE COMPLAINT. A signed written~~
 11 ~~complaint alleging improper or excessive use of force by a law~~
 12 ~~enforcement officer that has been investigated and determined~~
 13 ~~to be valid and deemed final after the conclusion of any and~~
 14 ~~all appeals or avenues of appellate review in the underlying~~
 15 ~~disciplinary proceeding.~~

16 (7) USE OF FORCE COMPLAINT. A signed written
 17 complaint, alleging the use of excessive force or excessive
 18 physical force by a law enforcement officer, that has been
 19 investigated and determined to be valid and deemed final after
 20 the conclusion of all appeals or avenues of appellate review
 21 in the underlying disciplinary proceeding.

22 Section 2. (a) (1) By October 1, 2023, the Alabama
 23 Peace Officers' Standards and Training Commission shall
 24 develop, implement, and maintain a centralized and electronic
 25 Law Enforcement Officer Employment Database. The database

1 shall include, but shall not be limited to, all of the
2 following reportable offenses:

3 a. Dates of hire, appointment, and reportable
4 separation, as defined in Section 1, of a law enforcement
5 officer from any law enforcement agency through which the
6 officer is or has been employed.

7 b. Information relating to disciplinary action, as
8 defined in Section 1, taken by a law enforcement agency
9 against a law enforcement officer.

10 c. Use of force complaints, as defined in Section 1,
11 against a law enforcement officer.

12 d. Any instance of a law enforcement officer's
13 reassignment for cause, as defined in Section 1.

14 e. Status of compliance with continuing education
15 requirements.

16 (2) The database shall have a uniform document for
17 law enforcement agencies to use in the electronic reporting
18 and uploading of the information required in subdivision (1).
19 The database shall also have the ability to upload explanatory
20 or supporting documents submitted by law enforcement agencies.

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

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

5 (b) (1) Within 30 days after disciplinary action, as
 6 defined in Section 1, against a law enforcement officer is
 7 final, or reassignment for cause, as defined in Section 1, a
 8 law enforcement agency shall report information regarding the
 9 disciplinary action or reassignment to the commission
 10 electronically through the uniform document referenced in
 11 subdivision (a) (2) for entry into the database. This
 12 information shall include the name of the law enforcement
 13 officer; the date of the disciplinary action; the type of
 14 disciplinary action imposed; a description of the conduct upon
 15 which such disciplinary action is based; and the name of the
 16 person alleging the complaint. This information shall be
 17 reported even if the law enforcement officer separates from
 18 the investigating law enforcement agency prior to serving any
 19 recommended suspension.

20 (2) Within 30 days after any use of force complaint,
 21 as defined in Section 1, against a law enforcement officer is
 22 adjudicated and the law enforcement agency's decision
 23 regarding the complaint becomes final, a law enforcement
 24 agency shall report to the commission information relating to
 25 the use of force complaint electronically through the uniform

1 document referenced in subdivision (a) (2) for entry into the
2 database. The information should identify the complainant and
3 the law enforcement officer; the date of the complaint; the
4 substance of the complaint; and the outcome of any
5 investigation and any internal appeal regarding the complaint.
6 This information shall be reported even if the law enforcement
7 officer separates from the investigating law enforcement
8 agency prior to serving any recommended suspension.

9 (3) Within ~~30~~ 15 days of the reportable separation,
10 as defined in Section 1, ~~or reassignment for cause~~ of a law
11 enforcement officer from a law enforcement agency, a law
12 enforcement agency shall report the separation ~~or reassignment~~
13 through the uniform document referenced in subdivision (a) (2)
14 for entry into the database.

15 (4) A law enforcement agency shall preserve and
16 maintain any information that is required to be reported under
17 this section for a period of 12 years.

18 (c) Information maintained in the database shall be
19 confidential and may only be disclosed as provided in this
20 act, for official law enforcement purposes, or pursuant to a
21 court order. In no instance may the information be disclosed
22 pursuant to public records' requests under Section 36-12-40,
23 Code of Alabama 1975. A person who knowingly discloses
24 information in the database without authorization or in

1 violation of this section shall be guilty of a Class A
2 misdemeanor.

3 (d) Any employee of the commission or a law
4 enforcement agency shall be immune from any and all civil or
5 criminal liability for the good faith transmittal to, entry
6 in, or use of information in the database for the purposes set
7 forth in this act.

8 (e) For the purpose of evaluation of candidates for
9 employment or appointment as a law enforcement officer with a
10 law enforcement agency, a law enforcement agency shall access
11 the information contained in the database.

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

14 Section 3. (a) Any law enforcement agency that is a
15 potential employer of a law enforcement officer shall request,
16 through the database from the commission, either in writing or
17 electronically, disclosure of the information maintained by
18 the commission as required in subsections (b)(1) and (b)(2) of
19 Section 2.

20 (b) In the event that the database does not include
21 information with respect to the law enforcement officer, any
22 law enforcement agency that previously employed or appointed
23 the law enforcement officer, upon receiving a written request
24 from an employing law enforcement agency in this state, shall
25 disclose a full and fair description of the former law

1 enforcement officer's employment history with that agency to
2 include the information in subsections (b)(1) and (b)(2) of
3 Section 2, if available.

4 (c) Information disclosed pursuant to subsection (b)
5 shall only be used for employment or appointment decisions,
6 and the law enforcement agency receiving the disclosures shall
7 maintain the confidentiality of the employment or appointment
8 information.

9 (d) An individual acting on behalf of a law
10 enforcement agency shall be immune from civil liability for
11 disclosing information required by this section if that
12 disclosure was made in good faith and in response to a proper
13 written request made pursuant to this act.

14 Section 4. (a) Prior to the ~~initial~~ employment or
15 appointment of a law enforcement officer, a law enforcement
16 agency shall:

17 (1) Conduct a fingerprint-based state and national
18 criminal background check that shall be completed by the
19 Alabama State Law Enforcement Agency (ALEA) for purposes of
20 determining suitability for employment or appointment.

21 (2) Review the current and prior law enforcement
22 officer employment history confirmed through access of the
23 information in the database as required by subsection (e) of
24 Section 2.

1 (3) Review current and previous residential
2 addresses of the law enforcement officer.

3 (4) Review reportable offenses, as defined in
4 Section 1, if any, against the law enforcement officer while
5 appointed or employed with any other law enforcement agency
6 confirmed through access of the information in the database as
7 required by paragraph (1) of subsection (a) of Section 2 of
8 this act.

9 (5) Review available social media accounts of the
10 law enforcement officer.

11 (6) Review professional references provided by the
12 law enforcement officer.

13 (7) A review of disciplinary action, as defined in
14 Section 1, taken against the law enforcement officer while in
15 secondary and postsecondary school confirmed by telephone or
16 electronic or other means.

17 (8) A full report of the law enforcement officer's
18 credit history provided by the law enforcement officer.

19 (b) A law enforcement officer will sign a written
20 release authorizing a law enforcement agency to obtain
21 pre-employment check information listed in subsection (a).

22 (c) A law enforcement agency will complete an
23 investigation validating any additional information provided
24 by the law enforcement officer.

1 (d) (1) Results of the criminal background check
2 received by the hiring or appointing law enforcement agency
3 shall be confidential and may not be deemed public record nor
4 disclosed to any individual beyond those with authorized
5 access nor disclosed under the Alabama Open Records Act.

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

12 Section 5. (a) The Alabama Peace Officers' Standards
13 and Training Commission shall randomly audit law enforcement
14 agencies' compliance with the reporting requirements under
15 Section 2.

16 (b) (1) If the commission determines that a law
17 enforcement agency is not in compliance with the requirements
18 under Section 2, it shall notify the law enforcement agency by
19 registered or certified mail of the results of its audit. The
20 law enforcement agency shall have 30 days from receipt of
21 notice within which to reach compliance with the requirements
22 of Section 2. If a law enforcement agency does not reach
23 compliance within 30 days from receipt of notice, the
24 commission may assess a civil penalty against the agency in
25 the amount of one thousand dollars (\$1,000) for each violation

1 and an additional one hundred dollars (\$100) thereafter for
2 each day the information is not reported to the commission for
3 entry into the database pursuant to Section 2.

4 (2) If the commission determines that the law
5 enforcement agency made a good-faith effort to report the
6 information as required under Section 2, or that noncompliance
7 was due to a technical error, the commission may waive the
8 assessment of any civil penalty.

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

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

16 Nothing in this act shall be construed as reducing
17 the standards and requirements established by the Commission.

18 ~~Section 6. The purpose or effect of this bill would~~
19 ~~be to require a new or increased expenditure of local funds~~
20 ~~within the meaning of Amendment 621 of the Constitution of~~
21 ~~Alabama of 1901, as amended by Amendment 890, now appearing as~~
22 ~~Section 111.05 of the Official Recompilation of the~~
23 ~~Constitution of Alabama of 1901, as amended. If this bill is~~
24 ~~not enacted by a 2/3 vote, it will not become effective with~~
25 ~~regard to a local entity unless approved by the local entity~~

1 ~~or until, and only as long as, the Legislature appropriates~~
2 ~~funds or provides for a local source of revenue.~~

3 Although this bill would have as its purpose or
4 effect the requirement of a new or increased expenditure of
5 local funds, the bill is excluded from further requirements
6 and application under Amendment 621, as amended by Amendment
7 890, now appearing as Section 111.05 of the Official
8 Recompilation of the Constitution of Alabama of 1901, as
9 amended, because the bill defines a new crime or amends the
10 definition of an existing crime.

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

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Speaker of the House of Representatives

President and Presiding Officer of the Senate

House of Representatives

I hereby certify that the within Act originated in
and was passed by the House 30-MAR-21, as amended.

Jeff Woodard
Clerk

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| Senate | 13-APR-21 | Amended and Passed |
| House | 15-APR-21 | Concurred in Senate Amendment |