

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

SYNOPSIS: Currently, there is no statutory requirement that a state or municipal law enforcement agency adopt written procedures for conducting internal investigations of law enforcement officers for administrative or disciplinary purposes.

This bill would require every state and municipal law enforcement agency to adopt written and published procedures for conducting internal investigations of law enforcement officers for administrative or disciplinary purposes.

This bill would also require that every agency distribute a copy of the approved procedures to every law enforcement officer employed by that agency.

A BILL  
TO BE ENTITLED  
AN ACT

1           Relating to internal investigations or complaints  
2       made against law enforcement officers employed by state or  
3       municipal law enforcement agencies; to require those agencies  
4       to establish and publish written standards and procedures for  
5       the completion of internal investigations; to require that  
6       every law enforcement agency distribute a copy of the approved  
7       procedures to every law enforcement officer employed by that  
8       agency.

9       BE IT ENACTED BY THE LEGISLATURE OF ALABAMA:

10           Section 1. The following definitions shall apply to  
11       this act:

12           (1) APPEAL. A review of the initial internal  
13       investigation and hearing of a complaint by a law enforcement  
14       agency.

15           (2) COMMISSION. The Alabama Peace Officers'  
16       Standards and Training Commission established under Section  
17       36-21-41 of the Code of Alabama 1975.

18           (3) COMPLAINT. An allegation made verbally or in  
19       writing of wrongdoing or improper conduct by a law enforcement  
20       officer, or an allegation of violation of the department,  
21       agency, board, or an appointing authority's rules or  
22       directives. The term includes all allegations of whatever kind  
23       accusing the law enforcement officer of professional  
24       misconduct, improper conduct, negligent acts or omissions, or  
25       any other violation of policy, procedure, rule, or other  
26       established practice of the law enforcement agency. The term

1 does not include an allegation or accusation of a crime or  
2 criminal activity on the part of the law enforcement officer.

3 (4) HEARING. The initial formal hearing conducted by  
4 the law enforcement agency to determine the truth or substance  
5 of the allegation lodged against the law enforcement officer  
6 and to determine the issues and merits of the complaint. A  
7 written record of the hearing will be made after the  
8 completion of every hearing conducted.

9 (5) INTERNAL INVESTIGATION. An administrative  
10 investigation that is conducted by the department, agency,  
11 board, or appointing authority of one of the agency's own law  
12 enforcement officers concerning the complaint, as defined in  
13 subdivision (3). The term internal investigation specifically  
14 excludes any investigation of a crime or suspected criminal  
15 activity on the part of the employee. An internal  
16 investigation does not include an investigation that is  
17 conducted externally by that agency, nor does the term include  
18 any investigation made by an agency that does not employ or  
19 directly supervise the law enforcement officer who is the  
20 subject of the investigation. An initial investigation  
21 conducted by a law enforcement agency may be concluded in the  
22 officer's favor if the agency makes a finding of no wrongdoing  
23 or misconduct, or no violation of any policy, procedure, rule,  
24 or established practice of the law enforcement agency.

25 (6) LAW ENFORCEMENT AGENCY. Every law enforcement  
26 agency of state government and every municipal law enforcement  
27 agency. The sheriff of each county and all deputy sheriffs

1 employed by the sheriff are specifically excluded from this  
2 act. The term law enforcement agency of the State of Alabama  
3 includes all state troopers and sworn officer employees of the  
4 Department of Public Safety, all sworn officers of the state  
5 Alcoholic Beverage Control Board, all sworn officers of the  
6 Enforcement Division of the Department of Conservation and  
7 Natural Resources, all sworn officers employed by the Public  
8 Service Commission, all sworn officers employed by the Board  
9 of Pardons and Paroles, and all other full-time employees of  
10 the State of Alabama who are charged with law enforcement  
11 duties and the power to make arrests and investigate criminal  
12 offenses.

13 (7) LAW ENFORCEMENT OFFICER. A municipal police  
14 officer, state trooper, state investigator, and all other  
15 state law enforcement officers holding the power to make  
16 arrests and investigate criminal offenses, provided that such  
17 person has completed the requirements for certification by the  
18 Alabama Peace Officers' Standards and Training Commission and  
19 holds a current and valid APOSTC certificate. This term does  
20 not include any person who is serving a probationary period.  
21 This term specifically excludes all sheriffs and deputy  
22 sheriffs.

23 Section 2. Every law enforcement agency, except  
24 county sheriff offices, shall establish and publish written  
25 procedures for administrative or disciplinary purposes, or  
26 both, for the conduct and process of the initial investigation  
27 hearing on the merits of the complaint, and the appeal of an

1 adverse decision by the law enforcement agency following any  
2 hearing on the complaint.

3 Section 3. The following requirements must be  
4 contained in any written procedure adopted pursuant to this  
5 act:

6 (1) At the time a law enforcement officer is  
7 initially questioned regarding a complaint as defined by this  
8 act, the law enforcement officer shall be notified in writing  
9 of the nature and substance of the complaint and the name of  
10 the complainant, if known. If there is no compelling reason to  
11 keep the name of the complainant confidential, the name of the  
12 complainant shall be provided to the law enforcement officer.

13 (2) If during the course of the investigation of an  
14 internal complaint, information is determined or provided that  
15 reasonably indicates the law enforcement officer may have  
16 committed a crime or engaged in criminal conduct, the criminal  
17 investigation shall take precedence over the administrative  
18 investigation and the outcome of the administrative  
19 investigation may be deferred until the criminal investigation  
20 is completed or terminated.

21 (3) A law enforcement officer may be suspended with  
22 pay or placed on mandatory leave or assigned alternative  
23 duties with compensation pending the conclusion of any  
24 internal investigation in accordance with existing policies  
25 and procedures of the appointing authority, agency, or  
26 department.

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

5           a. The law enforcement officer's right to employ  
6 legal counsel and have legal assistance during the  
7 administrative investigation.

8           b. The law enforcement officer's right to have legal  
9 counsel present at all phases of the administrative  
10 investigation, including any questioning conducted by the  
11 agency.

12           c. The law enforcement officer's right to appeal any  
13 administrative or disciplinary action or finding of the  
14 agency.

15           (5) Procedural rules for the administrative hearing  
16 shall be in writing and a full copy of the established  
17 procedure shall be provided to the employee not less than  
18 seven days prior to the administrative hearing. Rules of  
19 evidence and rules of discovery shall not apply to  
20 administrative hearings conducted under this act.

21           (6) In the event of an adverse finding or action  
22 against the law enforcement officer, an appeal process must be  
23 provided by the reviewing authority that meets or exceeds the  
24 procedural due process requirements established under Section  
25 11-43-230 of the Code of Alabama 1975. The appeals process  
26 must include essential due process for the law enforcement  
27 officer, provide notice of the steps the law enforcement

1 officer must take to post an appeal, and provide a time and  
2 place for an appeal to be considered. The appeal process shall  
3 provide for an impartial officer or body to consider the  
4 appeal and render a decision. The appeal process shall also  
5 provide the law enforcement officer with the right to be  
6 represented by counsel and an opportunity to present evidence,  
7 cross-examine witnesses, and offer testimony on the employee's  
8 behalf.

9 Section 4. (a) Every law enforcement agency, as  
10 defined by this act, conducting an internal investigation of  
11 any law enforcement officer employed by that agency shall  
12 complete the investigation within 90 days following the filing  
13 of the complaint against the law enforcement officer, unless  
14 the time is extended for any of the following reasons:

15 (1) By agreement of both parties.

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

19 (3) A law enforcement agency may extend the time  
20 allotted if during the initial investigation, newly discovered  
21 evidence is found or additional evidence is provided, that  
22 changes the nature and the scope of the original  
23 investigation.

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



1                   Section 5. Upon the establishment of its internal  
2   investigation procedure pursuant to this act, every law  
3   enforcement agency shall make a copy of the procedure  
4   available to all law enforcement officers employed by the  
5   agency for their review.

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