

HB513 ENGROSSED



1 HB513
2 KHZN655-2
3 By Representative Brinyark
4 RFD: Public Safety and Homeland Security
5 First Read: 03-Apr-25



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A BILL

TO BE ENTITLED

AN ACT

Relating to the Alabama Justice Information Commission;
to amend Sections 41-9-590, 41-9-594, 41-9-625, and 41-9-650,
Code of Alabama 1975, to mandate the collection and
dissemination of biometric identifiers by certain entities; to
authorize the use of certain approved biometric identification
devices by law enforcement officers to identify individuals;
to establish and provide for the operation of the Alabama
Background Check Service; to add Sections 41-9-650.1,
41-9-650.2, 41-9-650.3, 41-9-650.4, and 41-9-650.5 to the Code
of Alabama 1975, to authorize ALEA to perform authorized
background checks for noncriminal justice purposes; to provide
for approved types and uses of background checks for
noncriminal justice purposes; to authorize ALEA and its
Secretary to establish and collect fees for background checks
for noncriminal justice purposes; to establish the Alabama Rap
Back Program; to provide penalties for the misuse of a
background check report; to make conforming changes to update
terminology; to make nonsubstantive, technical revisions to
update the existing code language to current style; and to
repeal Article 4 of Chapter 2 of Title 32, Code of Alabama



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1975, regarding criminal history information.

BE IT ENACTED BY THE LEGISLATURE OF ALABAMA:

Section 1. Sections 41-9-590, 41-9-594, 41-9-625, and 41-9-650, Code of Alabama 1975, are amended to read as follows:

"§41-9-590

When used in this article, the following terms~~shall~~ have the following meanings, respectively, unless the context clearly indicates a different meaning:

(1) AJIC or COMMISSION. The Alabama Justice Information Commission.

(2) ALEA. The Alabama State Law Enforcement Agency.

(3) ALEA CJIS. The Criminal Justice Information Services Division of the ALEA State Bureau of Investigations.

(4) BACKGROUND CHECK. A report produced by one or more information systems within ALEA that identifies a specific person's criminal history record within the state criminal history repository. The report may also include criminal history record information from the national criminal history repository maintained by the FBI or other public safety-related information maintained or accessed through the authority of ALEA.

(5) CRIMINAL HISTORY RECORD INFORMATION. Information collected by criminal justice agencies on individuals consisting of identifiable descriptions including fingerprints and other biometric information, and notations of arrests, detentions, indictments, or other formal charges, and any disposition arising therefrom, including acquittal,



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57 sentencing, correctional induction, supervision, or release.
58 The term does not include identification information such as
59 fingerprint records if such information does not indicate the
60 individual's involvement with the criminal justice system.

61 ~~(3)~~ (6) CRIMINAL JUSTICE AGENCIES. Federal, state,
62 local, and tribal public agencies that perform substantial
63 activities or planning for activities relating to the
64 identification, apprehension, prosecution, adjudication, or
65 rehabilitation of civil, traffic, and criminal offenders.

66 ~~(4)~~ (7) CRIMINAL JUSTICE INFORMATION. ~~Data necessary for~~
67 ~~criminal justice~~ Information based upon data under the
68 authority of ALEA or AJIC necessary for criminal justice and
69 public safety agencies to perform their duties and enforce
70 existing law missions. This term includes, but is not limited
71 to, biometrics, business, biometric, identity history, person,
72 organization, and property, when accompanied by any personally
73 identifiable information, bond conditions and provisions,
74 case/incident case or incident history data reports, and any
75 other data deemed criminal justice information by the FBI CJIS
76 Security Policy. The term also includes ALEA-provided or FBI
77 CJIS-provided data necessary to make hiring decisions. In
78 addition, the term may refer to the ALEA CJIS-provided or FBI
79 CJIS-provided data necessary for civil agencies to perform
80 their missions, including, but not limited to, data used to
81 make hiring decisions.

82 ~~(5)~~ (8) CRIMINAL JUSTICE INFORMATION SERVICES DIVISION
83 or FBI CJIS. The division of the ~~Federal Bureau of~~
84 ~~Investigation that equips law enforcement, national security,~~



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85 ~~and intelligence community partners with needed criminal~~
86 ~~justice information~~ FBI that is responsible for the
87 collection, warehousing, and timely dissemination of relevant
88 criminal justice information to the FBI and to qualified law
89 enforcement, criminal justice, civilian, academic, employment,
90 and licensing agencies.

91 (9) FBI. The Federal Bureau of Investigation.

92 ~~(6)~~ (10) INFORMATION SYSTEM. A system of people, data,
93 and processes, whether manual or automated, established for
94 the purpose of managing information.

95 ~~(7)~~ (11) NLETS. ~~Network provider~~ The national
96 organization that provides for exchange of criminal justice
97 and public safety information ~~among multiple~~ between state,
98 federal, and international criminal justice agencies.

99 ~~(8)~~ (12) NLETS SYSTEM AGENCY ~~or NSA~~. The state agency
100 responsible for the administration of ~~the NLETS network~~
101 information provided by NLETS to criminal justice and public
102 safety agencies within this state and represents the state on
103 the governing board for NLETS.

104 (13) NONCRIMINAL JUSTICE PURPOSE. The uses of criminal
105 history records for purposes authorized by federal or state
106 law other than purposes relating to the administration of
107 criminal justice, including employment suitability, licensing
108 determinations, immigration and naturalization matters, and
109 national security clearances.

110 ~~(9)~~ (14) OFFENSE. Any act that is a felony, misdemeanor,
111 state violation, municipal ordinance violation, or violation,
112 or an act of delinquency.



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(15) RAP BACK. A system that enables authorized entities to receive ongoing status notifications of any criminal history reported by ALEA or the FBI on individuals whose fingerprints are registered in the ALEA CJIS biometric identity repository or the FBI CJIS national fingerprint file.

~~(10)~~ (16) SECRETARY. The Secretary of the Alabama State Law Enforcement Agency.

~~(11)~~ (17) SBI. The State Bureau of ~~Investigation~~ Investigations.

~~(12)~~ (18) USER AGENCY. Any agency or entity that subscribes to, accesses, or views any ALEA information system or service provided under the authority of this article."

"§41-9-594

(a) The commission shall establish ~~its own~~ rules and policies for the performance of the responsibilities ~~charged to it in~~ under this article. Unless otherwise stated, the rules of the commission are subject to the Administrative Procedure Act, Chapter 22 of Title 41. ALEA may establish procedures to implement the rules and policies of the commission or as otherwise stated in state law.

(b) The commission shall ~~establish~~ adopt rules and policies that will restrict the information obtained under authority of this article to the items germane to the implementation of this article and restrict the use of information only to authorized persons and agencies.

(c) The chair of the commission shall appoint a Privacy and Security Committee from the membership of the commission who are elected officials, or their designees, consisting of a



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141 chair and three members, to study the privacy and security
142 implications of sharing criminal justice information and to
143 formulate rule or policy recommendations for consideration by
144 the commission concerning the collection, storage,
145 dissemination, or usage of criminal justice information.

146 (d) The commission may adopt rules and policies
147 regarding the collection, storage, and dissemination of
148 criminal justice information that conform to the policies of
149 the FBI CJIS. ~~The commission may adopt rules and policies that~~
150 ~~permit ALEA to perform background checks for noncriminal~~
151 ~~justice purposes and may provide for the procedure for~~
152 ~~obtaining the records including, but not limited to, charging~~
153 ~~a fee not to exceed twenty-five dollars (\$25) for securing~~
154 ~~records through ALEA. All fees shall be deposited into the~~
155 ~~State Treasury to the credit of the Public Safety Fund and~~
156 ~~shall be used to cover the expenses for improving criminal~~
157 ~~history records and the state repository at ALEA.~~

158 (e) Any rule or policy of the commission to the
159 contrary notwithstanding, the police department of any college
160 or university in this state which offers medical, nursing, and
161 health care education, or which operates a hospital may
162 request from ALEA a criminal background check on any person
163 who applies for employment with the college or university, and
164 ALEA may charge a background search fee of up to twenty-five
165 dollars (\$25) from each applicant for each search conducted on
166 the applicant. All fee proceeds from the background check fee
167 shall be deposited in the State Treasury to the credit of the
168 Public Safety Fund and shall be used to cover expenses for



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improving criminal history records and the state repository at ALEA.

(f) The commission may establish a fee schedule for any services rendered by ALEA under the authority of this article. All fees shall be deposited into the State Treasury to the credit of the Public Safety Fund and shall be used to support, develop, maintain, and promote operations as authorized in this article."

"§41-9-625

~~(a) All persons in this state in charge of law enforcement and correctional agencies shall obtain biometric identifiers, which may include fingerprints, photographs, palm prints, retina scans, or other identifiers specified by the FBI, according to the biometric identification system at ALEA and the rules established by the commission of all persons arrested or taken into custody as fugitives from justice, and of all unidentified human corpses in their jurisdictions. All biometric identifiers collected according to this section shall be provided to ALEA according to the rules of the commission.~~

~~(b) If any person arrested or taken into custody is subsequently released without charge or cleared of the offense through criminal justice proceedings, the disposition shall be reported by all state, county, and municipal criminal justice agencies to ALEA within 30 days of such action, and all of the information shall be eliminated and removed.~~

(a) When an individual is arrested for a criminal offense, the arresting agency shall obtain biometric



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197 identifiers, which may include fingerprints, photographs, palm
198 prints, iris scans, or other identifiers specified by rule of
199 AJIC, and provide this information to ALEA according to the
200 procedures established by ALEA CJIS for inclusion in the state
201 biometric identification repository.

202 (b) When an individual is detained or taken into
203 custody as a fugitive from justice, the agency with custody
204 over the individual may obtain biometric identifiers, which
205 may include fingerprints, photographs, palm prints, iris
206 scans, or other identifiers specified by AJIC by rule and
207 provide the information according to the procedures
208 established by ALEA CJIS. If the individual is subsequently
209 released without charge, released to the jurisdiction of the
210 underlying arrest, or otherwise cleared of the offense through
211 criminal justice proceedings, the involved agency shall notify
212 ALEA CJIS of such disposition within 30 days. Upon receiving
213 notification, ALEA shall remove all information regarding the
214 detainment or custodial event from all ALEA CJIS information
215 systems.

216 (c) All agencies that recover an unidentified human
217 corpse shall obtain biometric identifiers and provide this
218 information and other recovery event-related information to
219 ALEA according to the rules established by the commission and
220 procedures established by ALEA CJIS for inclusion in the state
221 biometric identification repository.

222 (d) A law enforcement officer may use a biometric
223 identification device with access to the state and federal
224 biometric identification repositories to identify an



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individual to the extent allowed by state law in situations that provide the officer authority to request or otherwise take action to identify an individual. The device must meet FBI or AJIC standards to compare the captured identifier to the state or federal biometric identification repositories."

"§41-9-650

~~In addition to any other requirements, any agency, board, or commission in this state that issues a permit or license, by rule, may require a criminal background check through ALEA as part of its licensing or permitting requirements. Any agency, board, or commission adopting a rule requiring a background check shall be subject to rules and procedures of the commission for the use of the background check.~~

(a) ALEA shall establish and operate a service, to be called the Alabama Background Check Service, that allows authorized persons and entities to obtain background checks on individuals for noncriminal justice purposes.

(b) AJIC shall adopt rules for the governance of the Alabama Background Check Service. ALEA shall establish procedures for the operation of the service that are consistent with the commission's rules.

(c) ALEA may contract with one or more vendors or other third-party entities to facilitate any or all functions of the service on behalf of ALEA."

Section 2. Sections 41-9-650.1, 41-9-650.2, 41-9-650.3, 41-9-650.4, and 41-9-650.5 are added to the Code of Alabama 1975, to read as follows:



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§41-9-650.1

(a) For the noncriminal justice purposes specified herein, ALEA may provide a background check to any of the following persons or entities:

(1) Any public or private employer, to screen a prospective employee or contractor or for other employment purposes.

(2) Any government agency, board, or commission with legal authority to issue a license, permit, or certification, to screen an applicant for the issuance or renewal of the license, permit, or certification.

(3) Any nonprofit or volunteer organization, to screen a prospective or current volunteer of the organization.

(4) Any housing authority or lessor of rental property, to screen a prospective or current resident.

(5) Any educational entity, for the purpose of screening student applicants, prospective or current volunteers involved with entity-related activities, or other individuals directly related to the operations or events of the entity and subject to the entity's authority.

(6) Any agency or organization established by federal or state law, for an official purpose of the agency or organization.

(7) Any person or entity authorized by the rules of the commission to obtain a background check for noncriminal justice purposes.

(b) Except as otherwise provided by law, an individual that is the subject of a background check for noncriminal



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justice purposes shall provide written permission for the release of information to the authorized person or entity requesting the check prior to ALEA's dissemination of background check information. The subject's written permission shall be maintained, physically or digitally, by the requesting person or entity for a period of three years or for the term of the subject's association with the requester, whichever is longer.

(c) A background check will not be provided on any individual under 18 years of age without parental consent.

(d) Any person or entity that is authorized by state law to perform a background check or allowed by law to adopt rules requiring a background check is subject to the AJIC rules and ALEA procedures described in Section 41-9-650.

(e) The commission may require a person or entity to develop background check guidelines for the commission's review and approval prior to allowing the release of background check information to that person or entity.

(f) Background check information may only be disseminated for the specific purposes listed in this section. No person or entity that has received background check information from ALEA shall subsequently disseminate the background check information to any other person or entity.

(g) Any recipient of a background check record may be subject to an audit by ALEA CJIS.

§41-9-650.2

(a) The Alabama Background Check Service may be provided through a biometric-based or a name-based search for



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309 a background check record.

310 (b) A name-based search shall be initiated by
311 submitting an individual's name to ALEA through an Internet
312 web portal or other commission-approved mechanism, which shall
313 allow for the electronic transfer of records and shall only
314 return state information results.

315 (c) The response to a biometric-based search shall only
316 be provided upon the receipt of biometric information by ALEA
317 or a commission-approved third-party entity acting on behalf
318 of ALEA that meets all FBI standards for biometric
319 identification collection. This search shall provide state
320 information results as well as other state and federal
321 information as allowed by law.

322 (d) An applicant for a license, permit, or
323 certification shall provide the issuing government agency,
324 board, or commission with his or her name, date of birth,
325 Social Security Number, and written permission for the release
326 of information on a form sworn by the applicant. This
327 information shall be digitally provided to ALEA. If a
328 biometric-based check is requested, the applicant shall submit
329 fingerprints or other biometrics in accordance with rules of
330 ALEA and AJIC. If a national record check is required, ALEA
331 shall forward or process the applicant's prints or other
332 biometrics to the FBI for a national criminal background check
333 in a manner consistent with federal law.

334 §41-9-650.3

335 (a) The secretary may establish reasonable record fees
336 for the provision of a background check report, not to exceed



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thirty dollars (\$30). The record fee may be waived at the discretion of the secretary.

(b) Additional costs may be assessed to a person or entity requesting a background check for any of the following:

(1) The cost for a national criminal background check, as determined by the FBI.

(2) Financial transaction fees.

(3) A reasonable one-time account registration fee.

(c) ALEA may enter into an agreement with one or more vendors or other third-party entities to perform background check services for ALEA on the basis of fee sharing or by adding an additional convenience fee for third-party services.

(d) Requests for background checks made by the Alabama Peace Officers' Standards and Training Commission or by any criminal justice agency are exempt from fees established pursuant to this section, if the request is made for criminal justice purposes or for the purpose of making an employment suitability decision.

(e) All monies received for background checks shall be deposited in the State Treasury to the credit of the Public Safety Fund. Such monies shall be used for the purposes of ALEA CJIS and for other ALEA expenses as determined by the secretary.

§41-9-650.4

(a) As part of the Alabama Background Check Service, ALEA may establish the Alabama Rap Back Program. If established, ALEA shall participate in the FBI's Next Generation Identification (NGI) Rap Back Service. The purpose



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of the rap back service is to allow ALEA to notify participating entities when an enrolled individual is the subject of a rap back notification event, including, but not limited to, being arrested for or convicted of a criminal offense.

(b) As used in this section, the following words have the following meanings:

(1) INDIVIDUAL. Any person who has undergone a fingerprint-based background check in order to care for children, the disabled, or the elderly, or to be licensed, certified, or perform volunteer service, or for any other FBI or federally authorized purpose with a participating entity and who has been enrolled by that participating entity in the Alabama Rap Back Program.

(2) PARTICIPATING ENTITY. An entity with statutory authority to require an individual to undergo a fingerprint-based background check as a condition to care for children, the disabled, or the elderly, or to be licensed, certified, or perform volunteer service, or for any other FBI or federally authorized purpose and has elected to enroll those individuals in the Alabama Rap Back Program.

(c) ALEA may submit fingerprints and accompanying records to the FBI to be retained in and advised through the FBI's NGI Rap Back Service when an enrolled individual is arrested for or convicted of a criminal offense. Fingerprints submitted to the FBI may be used for future searches, including latent searches.

(d) ALEA shall ensure that notification is made to the



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393 participating entity that enrolls an individual in the Alabama
394 Rap Back Program when an FBI Rap Back report notification is
395 received. The information contained in the notification shall
396 be used by the participating entity for purposes of
397 determining the eligibility of the continued service of the
398 individual and shall not be further disseminated.

399 (e) No liability shall be imposed upon any law
400 enforcement official who disseminates information, or does not
401 disseminate information, in a good faith attempt to comply
402 with the requirements of this section. Nothing in this
403 subsection shall be construed to grant immunity for gross
404 negligence or willful misconduct.

405 (f) ALEA shall adopt rules governing the operation and
406 maintenance of the Alabama Rap Back Program and the removal
407 and destruction of records on individuals who are deceased or
408 who are no longer individuals as defined in this section. Such
409 rules shall provide that a participating entity shall
410 disenroll any individual who is deceased or is no longer an
411 individual as defined in this section within five business
412 days of death or such event that no longer requires the
413 individual to be enrolled in the Alabama Rap Back Program to
414 ensure the prompt removal and destruction of records from the
415 Alabama Rap Back Program.

416 (g) ALEA may assess an annual fee not to exceed twelve
417 dollars (\$12) per individual enrolled in the Alabama Rap Back
418 Program. The fee shall be paid by the participating entity
419 enrolling an individual in the Alabama Rap Back Program. When
420 more than one participating entity enrolls the same individual



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in the Alabama Rap Back Program, both participating entities shall be responsible for paying the full cost for maintenance and notification. Any fees collected shall be deposited in the State Treasury to the credit of the Public Safety Fund. Such monies shall be used for the purposes of ALEA CJIS and for other ALEA expenses as determined by the secretary.

(h) No participating entity authorized to submit fingerprints shall be considered negligent per se in a civil action solely because the entity elected not to enroll an individual in the Alabama Rap Back Program pursuant to this section.

(i) ALEA may establish an in-state rap back service for any person or entity that does not qualify to receive information from the FBI Rap Back Service but that has authority to require a state-only background check.

§41-9-650.5

(a) An individual commits the crime of misuse of a background check report if he or she does any of the following:

(1) Knowingly receives, disseminates, or otherwise uses a background check contrary to the purposes allowed by this article or otherwise allowed in law.

(2) Performs a background check on an individual without first receiving a release, when required, from the subject of the report.

(3) Willfully uses information submitted to the Alabama Rap Back Program for purposes not authorized in this article with the intent to harass or intimidate another individual.



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449 (b) Misuse of a background check report is a Class B
450 misdemeanor.

451 Section 3. Article 4 of Chapter 2 of Title 32, Code of
452 Alabama 1975, relating to the release of criminal history
453 information, is repealed.

454 Section 4. This act shall become effective on October
455 1, 2025.



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House of Representatives

459 Read for the first time and referred03-Apr-25
460 to the House of Representatives
461 committee on Public Safety and
462 Homeland Security
463
464 Read for the second time and placed09-Apr-25
465 on the calendar:
466 1 amendment
467
468 Read for the third time and passed10-Apr-25
469 as amended
470 Yeas 97
471 Nays 0
472 Abstains 2
473
474
475 John Treadwell
476 Clerk
477