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3 HOUSE PUBLIC SAFETY AND HOMELAND SECURITY COMMITTEE SUBSTITUTE
4 FOR HB411
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9 SYNOPSIS: This bill would create a Law Enforcement
10 Officer Employment Database for implementation and
11 maintenance by the Alabama Peace Officers'
12 Standards and Training Commission.

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

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

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

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

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

4 This bill would require that prior to
5 employment, law enforcement agencies must complete
6 a full background check on any hired law
7 enforcement officers.

8 This bill would outline the requirements for
9 a pre-employment check and who is authorized to
10 obtain the information.

11 This bill would provide criminal penalties
12 for the release or disclosure of any information
13 received from the pre-employment check to any
14 individual not authorized to receive it.

15 This bill would also create civil immunity
16 for any responsible agency that discloses
17 information for the purposes for which it is
18 authorized.

19 Amendment 621 of the Constitution of Alabama
20 of 1901, as amended by Amendment 890, now appearing
21 as Section 111.05 of the Official Recompilation of
22 the Constitution of Alabama of 1901, as amended,
23 prohibits a general law whose purpose or effect
24 would be to require a new or increased expenditure
25 of local funds from becoming effective with regard
26 to a local governmental entity without enactment by
27 a 2/3 vote unless: it comes within one of a number

1 of specified exceptions; it is approved by the
2 affected entity; or the Legislature appropriates
3 funds, or provides a local source of revenue, to
4 the entity for the purpose.

5 The purpose or effect of this bill would be
6 to require a new or increased expenditure of local
7 funds within the meaning of the amendment. If this
8 bill is not enacted by a 2/3 vote, it will not
9 become effective with regard to a local entity
10 unless approved by the local entity or until, and
11 only as long as, the Legislature appropriates funds
12 or provides for a local source of revenue.

13
14 A BILL
15 TO BE ENTITLED
16 AN ACT

17
18 Relating to law enforcement; to require the Alabama
19 Peace Officers' Standards and Training Commission to create a
20 database of certain information relating to law enforcement
21 officers; to provide that the information in the database is
22 confidential; to provide for criminal penalties for
23 unauthorized disclosure; to require former law enforcement
24 employers to disclose information to another law enforcement
25 agency for purposes of employment of law enforcement officers;
26 to provide immunity for certain disclosures; to require law
27 enforcement agencies, prior to employment, to conduct and

1 complete a pre-employment check of a law enforcement officer;
2 to require the Alabama Peace Officers' Standards and Training
3 Commission to collect and maintain any data relating to the
4 pre-employment check; to provide penalties for violations; and
5 in connection therewith to have as its purpose or effect the
6 requirement of a new or increased expenditure of local funds
7 within the meaning of Amendment 621 of the Constitution of
8 Alabama of 1901, as amended by Amendment 890, now appearing as
9 Section 111.05 of the Official Recompilation of the
10 Constitution of Alabama of 1901, as amended.

11 BE IT ENACTED BY THE LEGISLATURE OF ALABAMA:

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

14 (1) DISCIPLINARY ACTION. Any formal corrective
15 action resulting in a recommendation of reprimand, suspension,
16 or termination based on a use of force complaint or
17 investigation, and which is deemed final after the conclusion
18 of any and all appeals or avenues of appellate review in the
19 underlying disciplinary proceeding.

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

24 (3) LAW ENFORCEMENT OFFICER. An officer employed by
25 the state, or a sheriff or municipality who is certified by
26 the Alabama Peace Officers' Standards and Training Commission
27 and who has the power of arrest.

1 (4) REASSIGNMENT FOR CAUSE. The decision of a law
2 enforcement agency to modify a law enforcement officer's
3 assignment, job responsibilities, title, or compensation, in
4 response to a use of force complaint or investigation that
5 causes a law enforcement agency to deem the reassignment of a
6 law enforcement officer necessary.

7 (5) REPORTABLE OFFENSE. Any disciplinary action,
8 reassignment for cause, reportable separation, or use of force
9 complaint filed against a law enforcement officer.

10 (6) REPORTABLE SEPARATION. The separation of a law
11 enforcement officer from a law enforcement agency, including a
12 resignation under suspicion, a resignation agreed upon by the
13 law enforcement officer and the law enforcement agency after
14 the filing of a complaint, or a resignation during an open
15 investigation involving the law enforcement officer.

16 (7) USE OF FORCE COMPLAINT. A signed written
17 complaint alleging improper or excessive use of force by a law
18 enforcement officer that has been investigated and determined
19 to be valid and deemed final after the conclusion of any and
20 all appeals or avenues of appellate review in the underlying
21 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
26 shall include, but shall not be limited to, all of the
27 following reportable offenses:

1 a. Dates of hire and reportable separation of a law
2 enforcement officer from any law enforcement agency through
3 which the officer is or has been employed.

4 b. Information relating to disciplinary action taken
5 by a law enforcement agency against a law enforcement officer.

6 c. Use of force complaints against a law enforcement
7 officer.

8 d. Any instance of a law enforcement officer's
9 reassignment for cause.

10 e. Status of compliance with continuing education
11 requirements.

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

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

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

25 (b) (1) Within 30 days after disciplinary action
26 against a law enforcement officer is final, a law enforcement
27 agency shall report information regarding the disciplinary

1 action to the commission electronically through the uniform
2 document referenced in subdivision (a)(2) for entry into the
3 database. This information shall include the name of the law
4 enforcement officer; the date of the disciplinary action; the
5 type of disciplinary action imposed; a description of the
6 conduct upon which such disciplinary action is based; and the
7 name of the person alleging the complaint. This information
8 shall be reported even if the law enforcement officer
9 separates from the investigating law enforcement agency prior
10 to serving any recommended suspension.

11 (2) Within 30 days after any use of force complaint
12 against a law enforcement officer is adjudicated and the law
13 enforcement agency's decision regarding the complaint becomes
14 final, a law enforcement agency shall report to the commission
15 information relating to the use of force complaint
16 electronically through the uniform document referenced in
17 subdivision (a)(2) for entry into the database. The
18 information should identify the complainant and the law
19 enforcement officer; the date of the complaint; the substance
20 of the complaint; and the outcome of any investigation and any
21 internal appeal regarding the complaint. This information
22 shall be reported even if the law enforcement officer
23 separates from the investigating law enforcement agency prior
24 to serving any recommended suspension.

25 (3) Within 30 days of the reportable separation or
26 reassignment for cause of a law enforcement officer from a law
27 enforcement agency, a law enforcement agency shall report the

1 separation or reassignment through the uniform document
2 referenced in subdivision (a) (2) for entry into the database.

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

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

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

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

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

25 Section 3. (a) Any law enforcement agency that is a
26 potential employer of a law enforcement officer shall request,
27 through the database from the commission, either in writing or

1 electronically, disclosure of the information maintained by
2 the commission as required in subsections (b)(1) and (b)(2) of
3 Section 2.

4 (b) In the event that the database does not include
5 information with respect to the law enforcement officer, any
6 law enforcement agency that previously employed the law
7 enforcement officer, upon receiving a written request from an
8 employing law enforcement agency in this state, shall disclose
9 a full and fair description of the former law enforcement
10 officer's employment history with that agency to include the
11 information in subsections (b)(1) and (b)(2) of Section 2, if
12 available.

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

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

22 Section 4. (a) Prior to the initial employment of a
23 law enforcement officer, a law enforcement agency shall:

24 (1) Conduct a fingerprint-based state and national
25 criminal background check that shall be completed by the
26 Alabama State Law Enforcement Agency (ALEA) for purposes of
27 determining suitability for employment.

1 (2) Review the current and prior law enforcement
2 officer employment history confirmed through access of the
3 information in the database as required by subsection (e) of
4 Section 2.

5 (3) Review current and previous residential
6 addresses of the law enforcement officer.

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

12 (5) Review available social media accounts of the
13 law enforcement officer.

14 (6) Review professional references provided by the
15 law enforcement officer.

16 (7) A review of disciplinary action taken against
17 the law enforcement officer while in secondary and
18 postsecondary school confirmed by telephone or electronic or
19 other means.

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

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

25 (c) A law enforcement agency will complete an
26 investigation validating any additional information provided
27 by the law enforcement officer.

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

6 (2) The employing law enforcement agencies shall
7 comply with rules of ALEA and the Federal Bureau of
8 Investigation regarding the use of criminal records. Any
9 person who releases or discloses records in violation of these
10 rules or subdivision (1), upon conviction, shall be guilty of
11 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
26 and an additional one hundred dollars (\$100) thereafter for

1 each day the information is not reported to the commission for
2 entry into the database pursuant to Section 2.

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

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

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

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

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

