

**House Judiciary Reported Substitute for HB100**

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5 A BILL

6 TO BE ENTITLED

7 AN ACT

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9 Relating to the Alabama Justice Information Commission;  
10 to amend Sections 41-9-590, 41-9-594, 41-9-625, and 41-9-650,  
11 Code of Alabama 1975, to mandate the collection and  
12 dissemination of biometric identifiers by certain entities; to  
13 authorize the use of certain approved biometric identification  
14 devices by law enforcement officers to identify individuals;  
15 to establish and provide for the operation of the Alabama  
16 Background Check Service; to add Sections 41-9-650.1,  
17 41-9-650.2, 41-9-650.3, 41-9-650.4, and 41-9-650.5 to the Code  
18 of Alabama 1975, to authorize the Alabama State Law  
19 Enforcement Agency (ALEA) to perform authorized background  
20 checks for noncriminal justice purposes; to provide for  
21 approved types and uses of background checks for noncriminal  
22 justice purposes; to authorize the Secretary of ALEA to  
23 establish and collect fees for background checks for  
24 noncriminal justice purposes; to establish the Alabama Rap  
25 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

**House Judiciary Reported Substitute for HB100**

29 repeal Article 4 of Chapter 2 of Title 32, Code of Alabama  
30 1975, regarding the dissemination of criminal history  
31 information.

32 BE IT ENACTED BY THE LEGISLATURE OF ALABAMA:

33 Section 1. Sections 41-9-590, 41-9-594, 41-9-625, and  
34 41-9-650, Code of Alabama 1975, are amended to read as  
35 follows:

36 "§41-9-590

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

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

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

43 (3) ALEA CJIS. The Criminal Justice Information  
44 Services Division of ALEA.

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

53 (5) CRIMINAL HISTORY RECORD INFORMATION. Information  
54 collected by criminal justice agencies on individuals  
55 consisting of identifiable descriptions, including  
56 fingerprints and other biometric information, and notations of

**House Judiciary Reported Substitute for HB100**

57 arrests, detentions, indictments, or other formal charges, and  
58 any disposition arising therefrom, including acquittal,  
59 sentencing, correctional induction, supervision, or release.  
60 The term does not include identification information such as  
61 fingerprint records if the information does not indicate the  
62 individual's involvement with the criminal justice system.

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

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



## House Judiciary Reported Substitute for HB100

85        ~~(5) (8) CRIMINAL JUSTICE INFORMATION SERVICES DIVISION~~  
 86        ~~or FBI CJIS. The division of the Federal Bureau of~~  
 87        ~~Investigation that equips law enforcement, national security,~~  
 88        ~~and intelligence community partners with needed criminal~~  
 89        ~~justice information. The Criminal Justice Information Services~~  
 90        ~~Division of the FBI that is responsible for the collection,~~  
 91        ~~warehousing, and timely dissemination of relevant criminal~~  
 92        ~~justice information to the FBI and to qualified law~~  
 93        ~~enforcement, criminal justice, civilian, academic, employment,~~  
 94        ~~and licensing agencies.~~

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

96        (10) IDENTITY HISTORY DATA. Textual data that  
 97        corresponds with an individual's biometric data, providing a  
 98        history of criminal and civil events for the identified  
 99        individual.

100        ~~(6) (11) INFORMATION SYSTEM. A system of people, data,~~  
 101        ~~and processes, whether manual or automated, established for~~  
 102        ~~the purpose of managing information.~~

103        ~~(7) (12) NLETS. Network provider The national~~  
 104        organization that provides for the exchange of criminal  
 105        justice and public safety information among multiple between  
 106        state, federal, and international criminal justice and public  
 107        safety agencies.

108        ~~(8) (13) NLETS SYSTEM AGENCY or NSA. The state agency~~  
 109        ~~responsible for the administration of the NLETS network~~  
 110        information provided by NLETS to criminal justice and public  
 111        safety agencies within this state and who provides a  
 112        representative from the state for the governance of NLETS.



## House Judiciary Reported Substitute for HB100

113        (14) NONCRIMINAL JUSTICE PURPOSE. The uses of criminal  
 114        history records for purposes authorized by federal or state  
 115        law other than purposes relating to the administration of  
 116        criminal justice, including employment suitability, licensing  
 117        determinations, immigration and naturalization matters, and  
 118        national security clearances.

119        ~~(9)~~(15) OFFENSE. Any act that is a felony, misdemeanor,  
 120        state violation, municipal ordinance violation, or violation,  
 121        or an act of delinquency.

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

127        ~~(10)~~(17) SECRETARY. The Secretary of the Alabama State  
 128        Law Enforcement Agency.

129        ~~(11) SBI. The State Bureau of Investigation.~~

130        ~~(12)~~(18) USER AGENCY. Any agency or entity that  
 131        subscribes to, accesses, or views any ALEA information system  
 132        or service provided under the authority of this article."

133        "§41-9-594

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



House Judiciary Reported Substitute for HB100

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

146 (c) The chair of the commission shall appoint a Privacy  
147 and Security Committee from the membership of the commission  
148 who are elected officials, or their designees, consisting of a  
149 chair and three members, to study the privacy and security  
150 implications of sharing criminal justice information and to  
151 formulate rule or policy recommendations for consideration by  
152 the commission concerning the collection, storage,  
153 dissemination, or usage of criminal justice information.

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

166 (e) Any rule or policy of the commission to the  
167 contrary notwithstanding, the police department of any college  
168 or university in this state which offers medical, nursing, and



## House Judiciary Reported Substitute for HB100

169 ~~health care education, or which operates a hospital may~~  
 170 ~~request from ALEA a criminal background check on any person~~  
 171 ~~who applies for employment with the college or university, and~~  
 172 ~~ALEA may charge a background search fee of up to twenty-five~~  
 173 ~~dollars (\$25) from each applicant for each search conducted on~~  
 174 ~~the applicant. All fee proceeds from the background check fee~~  
 175 ~~shall be deposited in the State Treasury to the credit of the~~  
 176 ~~Public Safety Fund and shall be used to cover expenses for~~  
 177 ~~improving criminal history records and the state repository at~~  
 178 ~~ALEA.~~

179 (e) The commission may direct ALEA CJIS to establish  
 180 procedures, manuals, documents, forms or requirements; perform  
 181 tasks to facilitate federal and state law; and perform tasks  
 182 to facilitate rules or policies established by the commission.  
 183 These directives and ALEA CJIS's subsequent response are not  
 184 subject to APA approval, but must be approved by the  
 185 commission.

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

193 "§41-9-625

194 ~~(a) All persons in this state in charge of law~~  
 195 ~~enforcement and correctional agencies shall obtain biometric~~  
 196 ~~identifiers, which may include fingerprints, photographs, palm~~

**House Judiciary Reported Substitute for HB100**

197 ~~prints, retina scans, or other identifiers specified by the~~  
198 ~~FBI, according to the biometric identification system at ALEA~~  
199 ~~and the rules established by the commission of all persons~~  
200 ~~arrested or taken into custody as fugitives from justice, and~~  
201 ~~of all unidentified human corpses in their jurisdictions. All~~  
202 ~~biometric identifiers collected according to this section~~  
203 ~~shall be provided to ALEA according to the rules of the~~  
204 ~~commission.~~

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

211 (a) When an individual is arrested for an offense, the  
212 arresting agency shall obtain biometric identifiers, which may  
213 include fingerprints, photographs, palm prints, iris scans, or  
214 other identifiers specified by rule of AJIC, and provide this  
215 information to ALEA according to the procedures established by  
216 ALEA CJIS for inclusion in the state biometric identification  
217 repository.

218 (b) When an individual is detained or taken into  
219 custody as a fugitive from justice, the agency with custody  
220 over the individual may obtain biometric identifiers, which  
221 may include fingerprints, photographs, palm prints, iris  
222 scans, or other identifiers specified by AJIC rule and provide  
223 the information according to the procedures established by  
224 ALEA CJIS. If the individual is subsequently released without

**House Judiciary Reported Substitute for HB100**

225 charge, released to the jurisdiction of the underlying arrest,  
226 or otherwise cleared of the charged offense through criminal  
227 justice proceedings, the involved agency shall notify ALEA  
228 CJIS of the disposition within 30 days. Upon receiving  
229 notification, ALEA shall remove all information regarding the  
230 detainment or custodial event from all ALEA CJIS information  
231 systems.

232 (c) All agencies that recover an unidentified human  
233 corpse shall obtain biometric identifiers and provide this  
234 information and other recovery event-related information to  
235 ALEA according to the rules established by the commission and  
236 procedures established by ALEA CJIS for inclusion in the state  
237 biometric identification repository.

238 (d) A law enforcement officer may use a biometric  
239 identification device with access to the state and federal  
240 biometric identification repositories to identify an  
241 individual to the extent allowed by state law in situations  
242 that provide the officer authority to request or otherwise  
243 take action to identify an individual. The device must meet  
244 FBI or AJIC standards to compare the captured identifier to  
245 the state or federal biometric identification repositories.  
246 The commission shall establish rules for the use of these  
247 devices and the resulting information returned from the use."

248 "§41-9-650

249 ~~In addition to any other requirements, any agency,~~  
250 ~~board, or commission in this state that issues a permit or~~  
251 ~~license, by rule, may require a criminal background check~~  
252 ~~through ALEA as part of its licensing or permitting~~

**House Judiciary Reported Substitute for HB100**

253 ~~requirements. Any agency, board, or commission adopting a rule~~  
254 ~~requiring a background check shall be subject to rules and~~  
255 ~~procedures of the commission for the use of the background~~  
256 ~~check.~~

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

261 (b) (1) AJIC shall adopt rules for the operation and use  
262 of the Alabama Background Check Service.

263 (2) ALEA CJIS shall establish procedures that are  
264 consistent with the commission's rules.

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

268       Section 2. Sections 41-9-650.1, 41-9-650.2, 41-9-650.3,  
269 41-9-650.4, and 41-9-650.5 are added to the Code of Alabama  
270 1975, to read as follows:

271       §41-9-650.1

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

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

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

**House Judiciary Reported Substitute for HB100**

281 license, permit, or certification.

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

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

286 (5) Any educational entity to screen student  
287 applicants, prospective or current volunteers involved with  
288 entity-related activities, or other individuals directly  
289 related to the operations or events of the entity and subject  
290 to the entity's authority.

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

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

297 (b) Except as otherwise provided by law, an individual  
298 who is the subject of a background check for noncriminal  
299 justice purposes shall provide express permission for the  
300 release of information to the authorized person or entity  
301 requesting the check prior to ALEA's dissemination of  
302 background check information. The subject's express permission  
303 shall be maintained, physically or digitally, by the  
304 requesting person or entity for a period of three years or for  
305 the term of the subject's association with the requester,  
306 whichever is longer.

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

**House Judiciary Reported Substitute for HB100**

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

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

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

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

324 §41-9-650.2

325 (a) The Alabama Background Check Service may be  
326 provided through a biometric-based or a name-based search for  
327 a background check record.

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

333 (c) The response to a biometric-based search shall only  
334 be provided upon the receipt of biometric information by ALEA  
335 or a commission-approved third-party entity acting on behalf  
336 of ALEA that meets all FBI standards for biometric

**House Judiciary Reported Substitute for HB100**

337 identification collection. This search shall provide state  
338 information results, as well as other state and federal  
339 information as allowed by law.

340 (d) An applicant for a license, permit, or  
341 certification shall provide the issuing government agency,  
342 board, or commission with his or her name, date of birth,  
343 Social Security number, and express permission for the release  
344 of information on a form sworn by the applicant. This  
345 information shall be digitally provided to ALEA. If a  
346 biometric-based check is requested, the applicant shall submit  
347 fingerprints or other biometrics in accordance with AJIC rules  
348 and ALEA CJIS procedures. If a national record check is  
349 required, ALEA shall forward or process the applicant's prints  
350 or other biometrics to the FBI for a national criminal  
351 background check in a manner consistent with federal law.

352 §41-9-650.3

353 (a) The secretary may establish reasonable record fees  
354 for the provision of a background check report, not to exceed  
355 thirty dollars (\$30). The record fee may be waived at the  
356 discretion of the secretary.

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

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

361 (2) Financial transaction fees.

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

363 (c) ALEA may enter into an agreement with one or more  
364 vendors or other third-party entities to perform background

**House Judiciary Reported Substitute for HB100**

365 check services for ALEA on the basis of fee sharing or by  
366 adding an additional convenience fee for third-party services.

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

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

378 \$41-9-650.4

379 (a) As part of the Alabama Background Check Service,  
380 ALEA may establish the Alabama Rap Back Program. If  
381 established, ALEA shall participate in the FBI's Next  
382 Generation Identification (NGI) Rap Back Service. The purpose  
383 of the rap back service is to allow ALEA to notify  
384 participating entities when an enrolled individual is the  
385 subject of a rap back notification event, including, but not  
386 limited to, being arrested for or convicted of an offense.

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

389 (1) INDIVIDUAL. Any individual who has undergone a  
390 fingerprint-based background check in order to care for  
391 children, the disabled, or the elderly, or to be licensed,  
392 certified, or to perform volunteer service, or for any other

**House Judiciary Reported Substitute for HB100**

393 FBI or federally authorized purpose with a participating  
394 entity and who has been enrolled by that participating entity  
395 in the Alabama Rap Back Program.

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

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

409 (d) ALEA shall ensure that notification is made to the  
410 participating entity that enrolls an individual in the Alabama  
411 Rap Back Program when an FBI Rap Back report notification is  
412 received. The information contained in the notification shall  
413 be used by the participating entity for purposes of  
414 determining the eligibility of the continued service of the  
415 individual and shall not be further disseminated.

416 (e) ALEA shall adopt rules governing the operation and  
417 maintenance of the Alabama Rap Back Program and the removal  
418 and destruction of records on individuals who are deceased or  
419 who are no longer individuals as defined in this section. Such  
420 rules shall provide that a participating entity shall

**House Judiciary Reported Substitute for HB100**

421 disenroll any individual who is deceased or is no longer an  
422 individual as defined in this section within five business  
423 days of death or such event that no longer requires the  
424 individual to be enrolled in the Alabama Rap Back Program to  
425 ensure the prompt removal and destruction of records from the  
426 Alabama Rap Back Program.

427 (f) ALEA may assess an annual fee not to exceed twelve  
428 dollars (\$12) per individual enrolled in the Alabama Rap Back  
429 Program. The fee shall be paid by the participating entity  
430 enrolling an individual in the Alabama Rap Back Program. When  
431 more than one participating entity enrolls the same individual  
432 in the Alabama Rap Back Program, both participating entities  
433 shall be responsible for paying the full cost for maintenance  
434 and notification. Any fees collected shall be deposited in the  
435 State Treasury to the credit of the Public Safety Fund. Such  
436 monies shall be used for the purposes of ALEA CJIS and for  
437 other ALEA expenses as determined by the secretary.

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

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

447 §41-9-650.5

448 (a) An individual commits the crime of misuse of a

**House Judiciary Reported Substitute for HB100**

449 background check report if he or she does any of the  
450 following:

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

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

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

460 (b) Misuse of a background check report is a Class B  
461 misdemeanor.

462 Section 3. Article 4 of Chapter 2 of Title 32, Code of  
463 Alabama 1975, relating to the release of criminal history  
464 information, is repealed.

465 Section 4. This act shall become effective on October  
466 1, 2026.