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4

A Bill

HOUSE BILL 1248

5 By: Representative Tosh
6 By: Senator T. Garner
7

For An Act To Be Entitled

9 AN ACT CONCERNING LAW ENFORCEMENT OFFICERS AND LAW
10 ENFORCEMENT AGENCIES; CONCERNING THE ARKANSAS
11 COMMISSION ON LAW ENFORCEMENT STANDARDS AND TRAINING;
12 AND FOR OTHER PURPOSES.
13
14

Subtitle

15 CONCERNING LAW ENFORCEMENT OFFICERS AND
16 LAW ENFORCEMENT AGENCIES; AND CONCERNING
17 THE ARKANSAS COMMISSION ON LAW
18 ENFORCEMENT STANDARDS AND TRAINING.
19
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21

22 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF ARKANSAS:
23

24 SECTION 1. Arkansas Code § 12-9-118 is amended to read as follows:
25 12-9-118. New or inactive law enforcement agency – Approval by
26 commission required – Definition.

27 (a) As used in this section, “inactive law enforcement agency” means a
28 law enforcement agency that existed and operated under a state law or local
29 ordinance in the past but that currently does not exist or has not operated
30 for at least one (1) year.

31 (b) The chief executive officer of an entity authorized by ~~ordinance~~
32 law to create a new law enforcement agency or reactivate an inactive law
33 enforcement agency shall appear before the Arkansas Commission on Law
34 Enforcement Standards and Training to request the creation of the new law
35 enforcement agency or reactivation of the inactive law enforcement agency and
36 present the ~~ordinance~~ law and documentation regarding:



1 (1) The funding mechanism, funding source or sources, and
 2 current budget proposal for the law enforcement agency;

3 (2) The proposed or enacted law enforcement agency policies,
 4 including without limitation policies regarding:

5 (A) Use of force;

6 (B) Vehicle pursuit;

7 (C) Professional conduct of law enforcement officers to be
 8 employed by the law enforcement agency; and

9 (D) Biased-based policing;

10 (3) The administrative structure and organizational chart of the
 11 law enforcement agency; and

12 (4) Any other information or documentation required by the
 13 commission.

14 (c) After the appearance and presentation under subsection (b) of this
 15 section, the commission shall approve or disapprove the request to create the
 16 new law enforcement agency or reactivate the inactive law enforcement agency.
 17

18 SECTION 2. Arkansas Code § 12-9-209 is amended to read as follows:

19 12-9-209. ~~Counties, cities, etc.~~— Reimbursement for training costs.

20 (a)(1) If a county, city, ~~or town~~, or state agency pays the cost or
 21 expenses for training a law enforcement officer at a state-funded law
 22 enforcement training academy and another county, city, ~~or town~~, or state
 23 agency employs that law enforcement officer within eighteen (18) months after
 24 completion of the training in a position requiring a certificate of training
 25 from the state-funded law enforcement training academy, the ~~state agency~~,
 26 county, city, ~~or town~~, or state agency so employing the law enforcement
 27 officer, at the time of employing the law enforcement officer, shall
 28 reimburse the county, city, ~~or town~~, or state agency for all or a portion of
 29 the expenses incurred by the county, city, ~~or town~~, or state agency for the
 30 training of the law enforcement officer at the state-funded law enforcement
 31 training academy, unless the law enforcement officer has been terminated by
 32 the county, city, ~~or town~~, or state agency that paid the costs or expenses of
 33 training, in which case no reimbursement is required from the county, city,
 34 town, or state agency hiring the law enforcement officer.

35 (2) Reimbursement may be sought only from the first county,
 36 city, town, or state agency that employed the law enforcement officer after

1 the county, city, ~~or town~~, or state agency paid the costs or expenses of
 2 training.

3 (3) Reimbursement shall include any salary, travel expenses,
 4 food, lodging, or other costs required to be paid by the county, city, ~~or~~
 5 town, or state agency, as follows:

6 (A) If the person is employed within two (2) months after
 7 completion of the training, the employing agency shall reimburse the total
 8 cost of the training;

9 (B) If the person is employed more than two (2) months but
 10 not more than six (6) months after completion of the training, the employing
 11 agency shall reimburse eighty percent (80%) of the cost of the training;

12 (C) If the person is employed more than six (6) months but
 13 not more than ten (10) months after completion of the training, the employing
 14 agency shall reimburse sixty percent (60%) of the cost of the training;

15 (D) If the person is employed more than ten (10) months
 16 but not more than fourteen (14) months after completion of the training, the
 17 employing agency shall reimburse forty percent (40%) of the cost of the
 18 training; or

19 (E) If the person is employed more than fourteen (14)
 20 months but not more than eighteen (18) months after completion of the
 21 training, the employing agency shall reimburse twenty percent (20%) of the
 22 cost of the training.

23 (b)(1) If any county, city, town, or state agency which employs an
 24 officer whose training expense was paid by another county, city, ~~or town~~, or
 25 state agency fails to make reimbursement for the expenses as required in
 26 subsection (a) of this section, the county, city, ~~or town~~, or state agency
 27 entitled to reimbursement shall notify the Treasurer of State.

28 (2) The Treasurer of State shall then withhold the amount of the
 29 reimbursement due for training the officer from the county or municipal aid
 30 of the employing county, city, ~~or town~~, or state agency or from funds
 31 appropriated to the employing state agency and shall remit the amount to the
 32 county, city, ~~or town~~, or state agency which is entitled to the reimbursement
 33 under the provisions of this section.

34
 35 SECTION 3. Arkansas Code § 12-9-301(7), concerning the definition of
 36 "part-time law enforcement officer", is amended to read as follows:

1 (7) "Part-time law enforcement officer" means, as applied to
2 employment and training requirements, ~~any officer working less than twenty~~
3 ~~(20)~~ a law enforcement officer who works twenty-four (24) hours per week or
4 less and ~~receiving~~ receives a salary from the employing law enforcement
5 agency; and
6

7 SECTION 4. Arkansas Code § 12-9-304(a), concerning appointment and
8 training standards for an auxiliary law enforcement officer, is amended to
9 read as follows:

10 (a)(1) ~~No person shall be appointed~~ A person shall not function as an
11 auxiliary law enforcement officer until the minimum standards for appointment
12 and training requirements have been completed.

13 (2) ~~Any~~ An auxiliary law enforcement officer who has not met
14 ~~these~~ the minimum standards for appointment and training requirements shall
15 have no law enforcement authority except that which is authorized for a
16 private citizen.
17

18 SECTION 5. Arkansas Code § 12-9-307 is amended to read as follows:
19 12-9-307. Benefits.

20 (a) The auxiliary law enforcement officer or the governing political
21 subdivision may elect to join the workers' compensation system for the
22 benefit of the auxiliary law enforcement officer, and the auxiliary law
23 enforcement officer may receive benefits therefrom as provided by statutes.

24 ~~(b) Auxiliary law enforcement officers shall have no claim to the~~
25 ~~benefits of any police retirement and pension funds in this state. Any claim~~
26 ~~presented by an auxiliary law enforcement officer for benefits from any~~
27 ~~police retirement and pension fund shall be held null and void.~~

28 ~~(e)(b)~~ The political subdivision may elect to provide liability
29 insurance, uniforms, and such other equipment as may be necessary to perform
30 the assigned tasks, and these provisions shall not be considered as salary or
31 wages.

32 ~~(d)(c)~~ An auxiliary law enforcement officer may receive such
33 compensation, per diem, expenses, or other allowances for his or her
34 services, for such purposes as transporting juveniles, as may be agreed to by
35 the appointing authority.
36

1 SECTION 6. Arkansas Code § 12-9-401 is amended to read as follows:
2 12-9-401. Definitions.

3 As used in this subchapter:

4 ~~(1) “Commission” means the Arkansas Commission on Law~~
5 ~~Enforcement Standards and Training as established by § 12-9-103;~~

6 ~~(2)(1)~~ “Full-time law enforcement officer” means any county
7 sheriff, or any other law enforcement officer employed by a law enforcement
8 agency who works ~~forty (40) or more hours per week~~ more than twenty-four (24)
9 hours per week and receives a salary from the law enforcement agency;

10 ~~(3)(2)~~ “Law enforcement agency” means any police force or
11 organization whose primary responsibility as established by statute or
12 ordinance is the enforcement of the criminal, traffic, or highway laws of
13 this state;

14 ~~(4)(3)~~ “Law enforcement officer” means any appointed law
15 enforcement officer or county sheriff who is responsible for the prevention
16 and detection of crime and the enforcement of the criminal, traffic, or
17 highway laws of this state;

18 ~~(5)(4)~~ “Part-time law enforcement officer” means ~~any officer~~
19 ~~working less than twenty (20)~~ a law enforcement officer who works twenty-four
20 (24) hours per week or less and ~~receiving~~ receives a salary from the
21 employing law enforcement agency;

22 ~~(6)(5)~~ “Police traffic radar” means any speed measurement device
23 utilizing the Doppler principle or an infrared light system to measure the
24 speed of motor vehicles; and

25 ~~(7)(6)~~ “Political subdivision” means any county, municipality,
26 township, or other specific local unit of general government.

27
28 SECTION 7. Arkansas Code § 12-9-403 is amended to read as follows:
29 12-9-403. Appointment and training.

30 (a) ~~No person shall~~ A person shall not be appointed as a police
31 traffic radar operator or police traffic radar instructor until the minimum
32 standards for training requirements have been completed.

33 (b) The training requirements for police traffic radar operators or
34 police traffic radar instructors shall be established by the Arkansas
35 Commission on Law Enforcement Standards and Training.

36 (c) The commission ~~may~~ shall issue a certificate evidencing

1 ~~satisfactory completion of the requirements of this subchapter when a law~~
 2 ~~enforcement officer's certification to operate a police traffic radar after~~
 3 evidence is submitted by the law enforcement agency director, chief, or
 4 county sheriff that the police traffic radar operator has met the training
 5 requirements.

6 (d) ~~Nothing in this section shall be construed to~~ This section does
 7 not preclude any law enforcement agency from establishing qualifications and
 8 standards for appointing and training of police traffic radar operators and
 9 police traffic radar instructors that exceed those set by this subchapter or
 10 by the commission.

11 (e) ~~Any~~ A police traffic radar operator or police traffic radar
 12 instructor failing to meet the training requirements as set forth in this
 13 subchapter shall lose his or her authority to operate a police traffic radar
 14 for enforcement purposes.

15 (f) A law enforcement officer shall complete the commission-required
 16 training for law enforcement officer certification before being eligible for
 17 certification as a police traffic radar operator.

18 (g) Only a full-time law enforcement officer, ~~part-time I law~~
 19 ~~enforcement officer, part-time II~~ part-time law enforcement officer, or an
 20 auxiliary law enforcement officer appointed as a reserve law enforcement
 21 officer as defined by commission rule is eligible for certification as a
 22 police traffic radar operator.

23
 24 SECTION 8. Arkansas Code § 12-9-602 is amended to read as follows:

25 12-9-602. Notice of employment, appointment, or separation – Response
 26 by the law enforcement officer – Duty of commission.

27 (a)(1)~~(A)~~ An employing agency shall immediately notify the Arkansas
 28 Commission on Law Enforcement Standards and Training, ~~in writing, on a form~~
 29 in a manner adopted by the commission, of the employment or appointment, or
 30 separation from employment or appointment, of any law enforcement officer.

31 ~~(B) The employing agency must maintain the original form~~
 32 ~~and submit, or electronically transmit, a copy of the form to the commission.~~

33 (2) Separation from employment or appointment includes any
 34 firing, termination, resignation, retirement, or voluntary or involuntary
 35 extended leave of absence of any law enforcement officer.

36 (3) A submission to the commission related to the employment or

1 appointment, or separation from employment or appointment, of a law
2 enforcement officer is subject to the provisions of § 5-53-103 concerning
3 false swearing.

4 (b)(1)~~(A)~~ In a case of separation from employment or appointment, the
5 employing agency shall ~~execute and maintain an affidavit of separation form~~
6 ~~adopted by the commission~~ notify the commission in a manner adopted by the
7 commission, setting forth in detail the facts and reasons for ~~such the~~
8 separation.

9 ~~(B) A copy of the affidavit of separation form must be~~
10 ~~submitted, or electronically transmitted, to the commission.~~

11 ~~(C) The affidavit must be executed under oath and subject~~
12 ~~to the provisions of § 5-53-103 concerning false swearing.~~

13 (2) In a case of a separation from employment or appointment for
14 one (1) of the following reasons, the notice shall state that:

15 (A) The law enforcement officer was separated for his or
16 her failure to meet the minimum qualifications for employment or appointment
17 as a law enforcement officer;

18 (B) The law enforcement officer was dismissed for a
19 violation of state or federal law;

20 (C) The law enforcement officer was dismissed for a
21 violation of the regulations of the law enforcement agency; or

22 (D) The law enforcement officer resigned while he or she
23 was the subject of a pending internal investigation.

24 (3) Any law enforcement officer who has separated from
25 employment or appointment ~~must~~ shall be permitted to respond to the
26 separation, in writing, to the commission, setting forth the facts and
27 reasons for the separation as he or she understands them.

28 (c)(1) Before employing or appointing a law enforcement officer, a
29 subsequent employing agency ~~must~~ shall contact the commission to inquire as
30 to the facts and reasons a law enforcement officer became separated from any
31 previous employing agency.

32 (2) The commission shall, ~~upon request and without prejudice,~~
33 ~~provide to the subsequent employing agency all information that is required~~
34 ~~under subsections (a) and (b) of this section and that is in its possession~~
35 provide subsequent employing agencies with all information in the
36 commission's possession resulting from the requirements of subsection (b) of

1 this section.

2 (d)(1) An administrator of an employing agency who discloses
 3 information pursuant to under this section is immune from civil liability for
 4 such disclosure or its consequences.

5 (2) ~~No employing agency shall be~~ An employing agency is not
 6 civilly liable for disclosure of information under this subchapter or
 7 performing any other duties under this subchapter.

8 (e)(1) The commission, its members, and its employees who disclose
 9 information pursuant to under this section are immune from civil liability
 10 for such disclosure or its consequences.

11 (2) The commission, its members, and its employees ~~shall not be~~
 12 are not civilly liable for:

- 13 (A) Disclosure of information under this subchapter; or
- 14 (B) Performing any other duties under this subchapter.

15
 16 SECTION 9. Arkansas Code § 12-9-603 is amended to read as follows:
 17 12-9-603. Certification review.

18 ~~The Arkansas Commission on Law Enforcement Standards and Training shall~~
 19 ~~review the certification of a law enforcement officer to determine whether~~
 20 ~~the certification should be suspended or revoked if an employing agency~~
 21 ~~reports the law enforcement officer was separated from employment or~~
 22 ~~appointment for one (1) of the reasons specified in § 12-9-602(b)(2)~~ When an
 23 employing agency reports that a law enforcement officer was separated from
 24 employment or appointment for one (1) or more of the reasons specified in §
 25 12-9-602(b)(2), the Arkansas Commission on Law Enforcement Standards and
 26 Training shall review the certification of the law enforcement officer, the
 27 law enforcement officer's eligibility for certification, and the law
 28 enforcement officer's ability to act as a law enforcement officer, to
 29 determine whether to suspend or revoke the law enforcement officer's:

- 30 (1) Certification;
- 31 (2) Eligibility for certification; or
- 32 (3) Ability to act as a law enforcement officer.

33
 34 SECTION 10. Arkansas Code § 14-14-1314(a)(2), concerning constable
 35 training requirements for a constable holding office on July 31, 2007, is
 36 amended to read as follows:

1 (2) A constable holding office on July 31, 2007, is exempt from
 2 the requirements of subdivision (a)(1) of this section if the constable has
 3 completed:

4 (A) The Part-time Law Enforcement ~~Officer II training~~
 5 Officer training or higher level training course; and

6 (B) Mandatory racial profiling courses.

7
 8 SECTION 11. Arkansas Code § 16-90-1416 is amended to read as follows:
 9 16-90-1416. Release of sealed records.

10 (a) The custodian of a sealed record shall not disclose the existence
 11 of the sealed record or release the sealed record except when requested by:

12 (1) The person whose record was sealed or the person's attorney
 13 when authorized in writing by the person;

14 (2) A criminal justice agency, as defined in § 12-12-1001, and
 15 the request is accompanied by a statement that the request is being made in
 16 conjunction with:

17 (A) An application for employment with the criminal
 18 justice agency by the person whose record has been sealed; or

19 (B) A criminal background check under the Polygraph
 20 Examiners Licensing Act, § 17-39-101 et seq., or the Private Security Agency,
 21 Private Investigator, and School Security Licensing and Credentialing Act, §
 22 17-40-101 et seq.;

23 (3) A court, upon a showing of:

24 (A) A subsequent adjudication of guilt of the person whose
 25 record has been sealed; or

26 (B) Another good reason shown to be in the interests of
 27 justice;

28 (4) A prosecuting attorney, and the request is accompanied by a
 29 statement that the request is being made for a criminal justice purpose;

30 (5) A state agency or board engaged in the licensing of
 31 healthcare professionals; ~~or~~

32 (6) The Arkansas Crime Information Center; or

33 (7) The Arkansas Commission on Law Enforcement Standards and
 34 Training.

35 (b)(1) As used in this section, "custodian" does not mean the Arkansas
 36 Crime Information Center.

1 (2) Access to data maintained by the center shall be governed by
2 § 12-12-1001 et seq.

3
4 SECTION 12. Arkansas Code § 16-90-1417(b)(2), concerning the effect of
5 sealing under the Comprehensive Criminal Record Sealing Act of 2013, is
6 amended to read as follows:

7 (2) This subchapter does not prevent the use of the record of a
8 prior conviction otherwise sealed under this subchapter for the following
9 purposes:

10 (A) A criminal proceeding for any purpose not otherwise
11 prohibited by law;

12 (B) Determination of offender status under the former § 5-
13 64-413;

14 (C) Habitual offender status, § 5-4-501 et seq.;

15 (D) Impeachment upon cross-examination as dictated by the
16 Arkansas Rules of Evidence;

17 (E) Healthcare professional licensure by a state agency or
18 board; ~~or~~

19 (F) Any disclosure mandated by Rule 17, 18, or 19 of the
20 Arkansas Rules of Criminal Procedure; or

21 (G) Determination of certification, eligibility for
22 certification, or of the ability to act as a law enforcement officer, by the
23 Arkansas Commission on Law Enforcement Standards and Training.

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26 **APPROVED: 2/14/19**
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