

1 State of Arkansas
2 80th General Assembly
3 Regular Session, 1995

A Bill

HOUSE BILL 1953

4 By: Representatives Owens, Lynn, Kidd, and Vess
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For An Act To Be Entitled

8 "AN ACT TO REQUIRE THAT ALL APPLICANTS FOR EMPLOYMENT AS A
9 CERTIFIED LAW ENFORCEMENT OFFICER BE SUBJECTED TO A
10 THOROUGH BACKGROUND INVESTIGATION; TO PROTECT THE
11 INFORMATION COLLECTED PURSUANT TO THE INVESTIGATION; TO
12 GRANT IMMUNITY TO PERSONS DISCLOSING INFORMATION; AND FOR
13 OTHER PURPOSES."
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Subtitle

15 "TO REQUIRE BACKGROUND INVESTIGATION FOR
16 APPLICANTS FOR EMPLOYMENT AS CERTIFIED
17 LAW ENFORCEMENT OFFICER, TO PROTECT THE
18 INFORMATION COLLECTED, AND GRANT
19 IMMUNITY TO PERSONS DISCLOSING
20 INFORMATION"
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23 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF ARKANSAS:
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25 SECTION 1. INTENT. Minimum standards require that to be a law
26 enforcement officer the applicant must be of good moral character as
27 determined by a thorough background investigation. In order to determine if
28 an applicant is of good moral character, direct and forthright responses to
29 legitimate requests for information are vital. However, because of our
30 litigious society, people are often reluctant to divulge critical information
31 that would disqualify an applicant from employment for fear of being sued
32 even when the information is correct and truthful. Because of these
33 concerns, it is necessary to establish a public policy which insures a
34 thorough background investigation be made on applicants for law enforcement
35 positions and insure persons with critical information are encouraged to

1 divulge that information, are protected from civil liability for divulging
2 that information, and that the information is kept strictly confidential and
3 used only for the intended purpose, i.e., to determine if an applicant is of
4 good moral character, and if the applicant possesses any character traits
5 which might prevent the applicant from becoming a successful law enforcement
6 officer.

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8 SECTION 2. (a) Every applicant for employment as a certified law
9 enforcement officer with any law enforcement department, office, or agency in
10 this state shall be subjected to a thorough background investigation to
11 determine the applicant's acceptability for the position pursuant to
12 guidelines developed by the Commission on Law Enforcement Standards and
13 Training, and shall, pursuant to the application for employment, execute a
14 document to be prepared by the Commission on Law Enforcement Standards and
15 Training authorizing the law enforcement department, office, or agency to
16 conduct the background investigation, authorizing the persons contacted by
17 the law enforcement agency to disclose and release pertinent historical
18 information about the applicant, and releasing the persons who disclose
19 information from any civil liability for disclosing the information.

20 (b) The law enforcement department, office, or agency shall keep all
21 information, interviews, reports, statements, memoranda, or other data
22 pertaining to and collected on the applicant, furnished by reason of this
23 act, strictly private and confidential and the information, interviews,
24 reports, statements, memoranda, or other data pertaining to and collected on
25 the applicant, may not be disclosed without the express written authorization
26 of the applicant and further, the information, interviews, reports,
27 statements, memoranda, or other data pertaining to and collected on the
28 applicant are declared to be privileged communications, if this privilege is
29 claimed by the applicant, and shall not be subject to discovery and may not
30 be used or offered or received in evidence in any legal proceeding of any
31 kind or character *except for criminal prosecutions when the applicant/law*
32 *enforcement officer is a defendant or in civil actions brought against the*
33 *law enforcement officer or the law enforcement department, office, or agency*
34 *for misconduct of the law enforcement officer or in claims against state law*
35 *enforcement agencies. Rights of privilege and confidentiality established*

1 *herein shall not extend to any document created for purposes other than this*
2 *background check, nor to the applicant's identity, resume, or job application*
3 *form. Any attempt to use or offer the information, interviews, reports,*
4 *statements, memoranda or other data, findings, or conclusions, or any part*
5 *thereof, pertaining to the applicant, unless this privilege is expressly*
6 *waived in writing by the applicant, shall constitute prejudicial error in any*
7 *proceeding.*

8 (c) Upon the request of a law enforcement department, agency, or office
9 that is conducting a background investigation on an applicant, and upon the
10 showing of a properly executed authorization to disclose described in
11 subsection (a), any person to whom a request is directed shall disclose the
12 requested information to the department, agency, or office, and shall be
13 immune from civil liability and suit for damages for all information
14 disclosed in good faith without malice.

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16 SECTION 3. The Commission on Law Enforcement Standards and Training
17 shall promulgate necessary rules and regulations to carry out the provisions
18 of this act.

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20 SECTION 4. All provisions of this act of a general and permanent
21 nature are amendatory to the Arkansas Code of 1987 Annotated and the Arkansas
22 Code Revision Commission shall incorporate the same in the Code.

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24 SECTION 5. If any provision of this act or the application thereof to
25 any person or circumstance is held invalid, such invalidity shall not affect
26 other provisions or applications of the act which can be given effect without
27 the invalid provision or application, and to this end the provisions of this
28 act are declared to be severable.

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30 SECTION 6. All laws and parts of laws in conflict with this act are
31 hereby repealed.

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/s/Rep. Owens, et al

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As Engrossed: 4/5/95

HB 1953

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