

# Law Enforcement Officer Employment Database

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## WHAT IS ACT 2021-268?

- Creates a new database for reporting and maintaining information regarding law enforcement
- It is now codified at Ala. Code § 36-21-55 et. seq.

# WHO IS COVERED BY ACT 2021- 268?

- The Alabama Peace Officers' Standards and Training Commission ("APOSTC")
- Any "Law Enforcement Officer" defined by the Act as an "officer employed or appointed by the state, or a sheriff or municipality who is certified by APOSTC, and who has the power of arrest;" and
- Any "Law Enforcement Agency" defined by the Act as a "state department, sheriff, municipal police department, or any other agency or entity employing or appointing law enforcement officers located within the state."

WHEN IS  
COMPLIANCE  
REQUIRED?

On or before October 1, 2023.

# WHAT ARE DUTIES OF APOSTC UNDER THE ACT?

- Maintain a centralized and electronic database containing certain information about law enforcement officers that shall be accessible by all law enforcement agencies in the State of Alabama. The database must contain each officer's date of hire/appointment; status of compliance with continuing education requirements; date of separation from the agency; and any "reportable offenses" of each officer.

# WHAT ARE DUTIES OF APOSTC UNDER THE ACT?...

## CONTINUED

- “Reportable offense” is defined as:
  1. “Disciplinary action” against the officer which is any formal corrective action resulting in a recommendation of reprimand, suspension, or termination based on a use of force complaint or investigation, and which is final after all appeals or avenues of appellate review in the underlying disciplinary proceeding.
  2. “Reassignment for cause” of an officer which is a decision by the agency to modify an officer’s assignment, job responsibilities, title, or compensation, in response to a use of force complaint or investigation.

# WHAT ARE DUTIES OF APOSTC UNDER THE ACT?...

## CONTINUED

3. “Reportable Separation” of an officer which is any separation of the officer from a law enforcement agency. This includes a resignation pending investigation, a resignation agreed upon by the officer and the agency after the filing of a complaint, or a resignation during an open investigation involving the officer.
4. “Use of Force Complaint” is a signed written complaint, alleging the use of excessive force or excessive physical force by an officer that has been investigated and determined to be valid and deemed final after the conclusion of all appeals or avenues of appellate review in the underlying disciplinary proceeding.

# WHAT ARE DUTIES OF APOSTC UNDER THE ACT? . . . CONTINUED.

- Develop a uniform document for agencies to use in the electronic reporting and uploading of information required to be reported by law enforcement agencies to APOSTC.
- Ensure the database is compatible with any federal database used for law enforcement purposes by the U.S. Attorney General or other entity as directed by federal law or order. APOSTC may contract with a third party for the development of the database.

# WHAT ARE DUTIES OF APOSTC UNDER THE ACT? . . . CONTINUED.

- Ensure that information in the database is confidential. Such information may only be disclosed in accordance with the Act, for law enforcement purposes only, or pursuant to a court order. In no instance may the information be disclosed in response to public records' requests pursuant to the Alabama Open Records Act, Ala. Code § 36-12-40 ( 1975).
- APOSTC is authorized to adopt rules for the implementation and administration of the Act.
- APOSTC shall randomly audit law enforcement agencies' compliance with the reporting requirements set forth in the Act.

# WHAT ARE THE REPORTING REQUIREMENTS FOR LAW ENFORCEMENT AGENCIES UNDER THE ACT?

- Report electronically to APOSTC, using the uniform form provided by APOSTC, the following:
  1. Disciplinary Actions and Reassignments for Cause (as defined in the Act) against law enforcement officers. Report within 30 days after disciplinary action becomes final or reassignment for cause. Report name of officer; date of disciplinary action; type of disciplinary action; description of conduct upon which disciplinary action is based; and name of person filing complaint. This information must be reported even if the officer separates from the agency prior to serving any recommended suspension.

# WHAT ARE THE REPORTING REQUIREMENTS FOR LAW ENFORCEMENT AGENCIES UNDER THE ACT?

2. Use of Force Complaints (as defined in the Act) against law enforcement officers. Report within 30 days after adjudication and the agency's decision becomes final. Report name of officer; name of person filing complaint; date of the complaint; substance of complaint; and outcome of any investigation and internal appeal. This information must be reported even if the officer separates from the agency prior to serving any recommended suspension.
  3. Reportable Separations (as defined in the Act) of law enforcement officers. Report within 15 days of the reportable separation.
- Preserve and maintain any information required to be reported to APOSTC for a period of 12 years.

# LIABILITY FOR UNAUTHORIZED DISCLOSURES; IMMUNITY.

- A person who knowingly discloses information in the database without authorization or in violation of any of the above provisions shall be guilty of a Class A misdemeanor.
- APOSTC and law enforcement agency employees shall be immune from any and all civil or criminal liability for the good faith transmittal to, entry in, or use of information in the database for the purposes set forth in the Act.

WHEN MUST LAW  
ENFORCEMENT  
AGENCIES  
REQUEST  
INFORMATION  
FROM THE  
DATABASE?

When evaluating any candidates for employment as law enforcement officers, law enforcement agencies shall request, in writing or electronically, disclosure of all information in the database with respect to disciplinary actions, reassignments for cause, and use of force complaints (as defined in the Act) for each candidate.

# WHEN MUST LAW ENFORCEMENT AGENCIES SUPPLY INFORMATION TO OTHER LAW ENFORCEMENT AGENCIES?

- If the database does not contain information about a particular law enforcement officer, any law enforcement agency that previously employed or appointed the officer, upon receiving a written request from an employing law enforcement agency in Alabama, shall disclose a full and fair description of the former law enforcement officer's employment history with that agency to include disciplinary actions, reassignments for cause and use of force complaints (as defined in the Act), if available.
- Information disclosed shall only be used for employment or appointment decisions, and the agency receiving the disclosures shall maintain the confidentiality of the information.
- An individual acting on behalf of a law enforcement agency shall be immune from civil liability for disclosing information required by Section VI herein if that disclosure was made in good faith and in response to a proper written request made pursuant to the Act.

# WHAT ARE THE DUTIES OF LAW ENFORCEMENT AGENCIES PRIOR TO THE INITIAL EMPLOYMENT OF LAW ENFORCEMENT OFFICERS?

- Prior to the initial employment/appointment of a law enforcement officer, a law enforcement agency shall:
  - Obtain a fingerprint-based state and national criminal background check of the officer completed by the Alabama State Law Enforcement Agency (“ALEA”). Results received by the hiring/appointing agency shall be confidential and may not be deemed public record nor disclosed to any individual beyond those with authorized access nor disclosed under the Alabama Open Records Act. The employing/appointing law enforcement agency shall comply with rules of ALEA and the Federal Bureau of Investigation regarding the use of criminal records. Any person who releases or discloses these records in violation of such rules or in violation of section VIII (A)(1) herein, shall, upon conviction, be guilty of a Class A misdemeanor;

## WHAT ARE THE DUTIES OF LAW ENFORCEMENT AGENCIES PRIOR TO THE INITIAL EMPLOYMENT OF LAW ENFORCEMENT OFFICERS? ... CONTINUED

- Review current and prior law enforcement officer employment history confirmed through access of information in the database when evaluating candidates for employment;
- Review current and previous residential addresses of the officer;
- Review reportable offenses (as defined in the Act) against the officer while appointed or employed with any other law enforcement agency confirmed through access of information in database;

## WHAT ARE THE DUTIES OF LAW ENFORCEMENT AGENCIES PRIOR TO THE INITIAL EMPLOYMENT OF LAW ENFORCEMENT OFFICERS?... CONTINUED

- Review available social media accounts of the law enforcement officer;
- Review professional references provided by the law enforcement officer;
- Review disciplinary action (as defined in the Act) taken against the law enforcement officer while in secondary and postsecondary school confirmed by telephone or electronic or other means;

## WHAT ARE THE DUTIES OF LAW ENFORCEMENT AGENCIES PRIOR TO THE INITIAL EMPLOYMENT OF LAW ENFORCEMENT OFFICERS?... CONTINUED

- Obtain a full report of the law enforcement officer's credit history provided by the law enforcement officer. The officer must sign a written release authorizing the agency to obtain the following pre-employment check information: Dates of hire/appointment; reportable separations (as defined in the Act) of a law enforcement officer from a law enforcement agency; information relating to disciplinary actions (as defined in the Act) taken by a law enforcement agency against the officer; use of force complaints (as defined in the Act) against a law enforcement officer; any instance of a law enforcement officer's reassignment for cause (as defined in the Act); and status of compliance with continuing education requirements.
- Complete an investigation validating any additional information provided by the law enforcement officer.

# AUDIT FUNCTIONS OF APOSTC UNDER THE ACT:

- APOSTC shall randomly audit compliance by law enforcement agencies with the reporting requirements of the Act.
- If APOSTC determines that an agency is not in compliance with the reporting requirements in Section IV herein, it shall notify the agency by registered or certified mail of the result of its audit.
  1. The agency shall have 30 days from receipt of the notice within which to reach compliance with the reporting requirements in the Act.
  2. If the agency does not reach compliance within 30 days of receipt of such notice, APOSTC may assess a civil penalty against the agency in the amount of \$1,000 for each violation, and an additional \$100 thereafter for each day the information is not reported to APOSTC for entry in the database.
  3. If APOSTC determines that the agency made a good-faith effort to report the information required by the Act, or that noncompliance was due to a technical error, APOSTC may waive the assessment of any civil penalty.

# AUDIT FUNCTIONS OF APOSTC UNDER THE ACT:

- Civil penalties collected by APOSTC shall be deposited into the Alabama Peace Officers' Standards and Training Fund to be used by APOSTC for the implementation and enforcement of the Act.
- APOSTC may adopt rules relating to the audit and assessment, collection or waiver of civil penalties as provided in this section.

WHAT SHOULD  
LAW  
ENFORCEMENT  
AGENCIES DO  
NOW?

Law enforcement agencies should develop written policies that provide instructions and guidance to their employees to ensure the agencies are in compliance with the Act.

# QUESTIONS?

