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THE GENERAL ASSEMBLY OF PENNSYLVANIA

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HOUSE BILL

No. 1841 Session of  
2019

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INTRODUCED BY READSHAW, KORTZ, KULIK, MILLARD, HILL-EVANS,  
JOHNSON-HARRELL, DeLUCA, BARRAR, A. DAVIS, CALTAGIRONE AND  
MOUL, SEPTEMBER 19, 2019

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REFERRED TO COMMITTEE ON JUDICIARY, SEPTEMBER 19, 2019

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AN ACT

1 Providing for law enforcement background investigations, for  
2 duties of the Municipal Police Officers' Education and  
3 Training Commission, law enforcement agencies and employers  
4 and for immunity from liability and violations.

5 The General Assembly of the Commonwealth of Pennsylvania  
6 hereby enacts as follows:

7 Section 1. Short title.

8 This act shall be known and may be cited as the Law  
9 Enforcement Background Investigations and Employment Information  
10 Act.

11 Section 2. Definitions.

12 The following words and phrases when used in this act shall  
13 have the meanings given to them in this section unless the  
14 context clearly indicates otherwise:

15 "Commission." The Municipal Police Officers' Education and  
16 Training Commission.

17 "Employer." The term does not include the Commonwealth or a  
18 political subdivision of the Commonwealth.

1 "Employment information." Written information in connection  
2 with job applications, performance evaluations, attendance  
3 records, disciplinary actions and eligibility for rehire.

4 "Law enforcement agency." A police department of a county,  
5 city, borough, incorporated town or township or a county  
6 district attorney's office.

7 Section 3. Background investigation required.

8 (a) General rule.--A law enforcement agency shall conduct a  
9 thorough background investigation on an applicant for employment  
10 as a police officer or an applicant for a position leading to  
11 employment as a police officer before the applicant may be  
12 employed. The background investigation must determine at a  
13 minimum whether the candidate meets the following standards:

14 (1) Standards established by the commission.

15 (2) Established security standards for access to  
16 national and State computerized record and communication  
17 systems.

18 (b) Higher standards not precluded.--The required background  
19 investigation does not prevent a law enforcement agency from  
20 establishing higher standards for law enforcement employees if  
21 those standards are not contrary to applicable law.

22 Section 4. Disclosure of employment information.

23 (a) Disclosure by employer.--Upon request of a law  
24 enforcement agency, an employer shall disclose or otherwise make  
25 available for inspection employment information of an employee  
26 or former employee who is the subject of an investigation under  
27 section 3. The request for disclosure of employment information  
28 must be:

29 (1) in writing;

30 (2) accompanied by an original authorization and release

1 signed by the employee or former employee; and

2 (3) signed by the chief of police or other authorized  
3 representative of the law enforcement agency conducting the  
4 background investigation.

5 (b) Disclosure by law enforcement agency.--Upon request of a  
6 law enforcement agency for any purpose, a law enforcement agency  
7 shall disclose or otherwise make available for inspection  
8 employment information of an employee or former employee who is  
9 the subject of the request. A law enforcement agency shall not  
10 disclose or make available for inspection requested employment  
11 information unless the request for disclosure for employment  
12 information is:

13 (1) in writing;

14 (2) accompanied by an original authorization and release  
15 signed by the employee or former employee; and

16 (3) signed by the chief of police, district attorney or  
17 other authorized representative of the law enforcement agency  
18 making the request.

19 Section 5. Refusal to disclose personnel record.

20 If a law enforcement agency or an employer refuses to  
21 disclose employment information in accordance with this act, a  
22 law enforcement agency may petition the Commonwealth Court to  
23 issue an order directing the disclosure of the employment  
24 information. The petition must include a copy of the original  
25 request for disclosure made upon the law enforcement agency,  
26 employer or former employer and the authorization and release  
27 signed by the employee or former employee.

28 Section 6. Immunity from liability and violations.

29 (a) General rule.--In the absence of fraud or malice, a law  
30 enforcement agency or an employer is immune from civil liability

1 for employment information released to a law enforcement agency  
2 in accordance with this act or for any subsequent publication  
3 made by the employee or former employee of employment  
4 information released to a law enforcement agency under this act.

5 (b) Release of information in violation of act.--A law  
6 enforcement agency or employer is not immune from civil  
7 liability for employment information released in violation of  
8 this act. The following apply:

9 (1) A police officer adversely affected by the release  
10 of employment information in violation of this act may seek  
11 declarative and injunctive relief and actual and punitive  
12 damages attributable to the violation in an appropriate  
13 court.

14 (2) The court shall award reasonable expenses, including  
15 but not limited to attorney fees, court costs and  
16 compensation for loss of income, to the police officer  
17 adversely affected if an action under paragraph (1) results  
18 in:

19 (i) a final determination by a court in favor of the  
20 police officer adversely affected; or

21 (ii) rescission of the challenged release of  
22 information after suit has been filed under paragraph (1)  
23 but prior to a final determination by a court.

24 Section 7. Notice of investigation.

25 (a) Notice to commission.--Upon initiation of a background  
26 investigation under this act, a law enforcement agency shall  
27 give written notice to the commission of the following:

28 (1) The candidate's full name and date of birth.

29 (2) The candidate's police identification number, if  
30 known.

1 (b) Timing.--Initiation of a background investigation occurs  
2 when the law enforcement agency begins its determination of  
3 whether an applicant meets the law enforcement agency's  
4 standards for employment as a law enforcement employee. The  
5 initiation of a background investigation does not include the  
6 submission of an application for employment.

7 Section 8. Confidentiality agreements.

8 If employment information is subject to a confidentiality  
9 agreement between the employee or former employee and the law  
10 enforcement agency or employer, the law enforcement agency or  
11 employer shall disclose the fact that a confidentiality  
12 agreement exists. If the employee or former employee has  
13 authorized the release of employment information without regard  
14 to a previous agreement to the contrary, the law enforcement  
15 agency or employer shall also disclose the employment  
16 information in accordance with section 4. If employment  
17 information is sealed or otherwise subject to a nondisclosure  
18 order by a court of competent jurisdiction, the law enforcement  
19 agency or employer shall disclose the fact that a nondisclosure  
20 order exists, along with information identifying the court and  
21 case number.

22 Section 9. Effective date.

23 This act shall take effect in 60 days.