

THE GENERAL ASSEMBLY OF PENNSYLVANIA

HOUSE BILL

No. 2736 Session of
2018

INTRODUCED BY RABB AND SIMS, OCTOBER 17, 2018

REFERRED TO COMMITTEE ON LABOR AND INDUSTRY, OCTOBER 17, 2018

AN ACT

1 Amending Title 44 (Law and Justice) of the Pennsylvania
2 Consolidated Statutes, in other officers, providing for
3 interdepartmental police hiring reform.

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

6 Section 1. Title 44 of the Pennsylvania Consolidated
7 Statutes is amended by adding a chapter to read:

8 CHAPTER 72

9 INTERDEPARTMENTAL POLICE HIRING REFORM

10 Sec.

11 7201. Definitions.

12 7202. Maintenance of records.

13 7203. Reporting.

14 7204. Disclosure of separation.

15 § 7201. Definitions.

16 The following words and phrases when used in this chapter
17 shall have the meanings given to them in this section unless the
18 context clearly indicates otherwise:

19 "Former employing law enforcement agency." A law enforcement

1 agency in this Commonwealth that was the employer of, or that
2 issued an oath of office to, a law enforcement officer certified
3 by the Pennsylvania State Police or the Municipal Police
4 Officers' Training Commission and that was required to maintain
5 an employment history record for the law enforcement officer.

6 "Law enforcement officer." This term shall have the same
7 meaning as the term "peace officer" is given under 18 Pa.C.S. §
8 501 (relating to definitions).

9 "Office." The Office of Attorney General of the
10 Commonwealth.

11 "Prospective employing law enforcement agency." A law
12 enforcement agency in this Commonwealth that is considering
13 employing a law enforcement officer who was previously employed
14 with another law enforcement agency in this Commonwealth.
15 § 7202. Maintenance of records.

16 (a) General rule.--In addition to any employment history
17 record required to be maintained under current law and
18 regulation, all law enforcement agencies in this Commonwealth
19 shall maintain the following:

20 (1) A record regarding the reason or reasons for, and
21 circumstances surrounding, a separation of service for each
22 law enforcement officer employed or to whom an oath of office
23 has been administered.

24 (2) Records of all criminal charges filed against a law
25 enforcement officer.

26 (3) Records of all civil or ethical complaints made
27 against a law enforcement officer.

28 (4) The disposition of all charges and complaints,
29 including disciplinary actions taken against a law
30 enforcement officer.

1 (b) Review of record.--The law enforcement agency shall
2 allow a separating law enforcement officer to review a record
3 prepared under this section upon the request of the separating
4 officer.

5 (c) Disagreement with record accuracy.--

6 (1) If a separating law enforcement officer disagrees
7 with the accuracy of the contents of the record prepared
8 under this section, the law enforcement officer may request
9 the correction or removal of the portion of the record
10 believed to be incorrect.

11 (2) If the law enforcement agency and the separating law
12 enforcement officer cannot reach an agreement on the contents
13 of the record, the separating law enforcement officer may
14 submit a written statement explaining the separating law
15 enforcement officer's position and the basis for the
16 disagreement.

17 (3) If a separating law enforcement officer submits a
18 written statement under this subsection, it must be kept with
19 the record required under this section and provided with the
20 rest of the contents of the record as required under section
21 7204 (relating to disclosure of separation).

22 § 7203. Reporting.

23 (a) Electronic database.--

24 (1) The office shall establish and maintain an
25 electronic database containing the records of separation for
26 all law enforcement officers in this Commonwealth.

27 (2) The database shall be accessible to all law
28 enforcement agencies.

29 (3) Except as provided under section 7204(e)(3)
30 (relating to disclosure of separation), records maintained in

1 the database shall be exempt from disclosure under the act of
2 February 14, 2008 (P.L.6, No.3), known as the Right-to-Know
3 Law.

4 (b) Time period to submit.--Upon the separation of an
5 officer from a law enforcement agency, the agency shall submit
6 the separation record to the office within 15 days of
7 separation.

8 § 7204. Disclosure of separation.

9 (a) Waiver required.--

10 (1) A law enforcement officer who is certified or was
11 previously certified in this Commonwealth and was previously
12 employed as a law enforcement officer in this Commonwealth,
13 who separates from the employment and subsequently seeks to
14 become reemployed as a law enforcement officer in this
15 Commonwealth, shall provide to the prospective employing law
16 enforcement agency or municipality, upon an offer of
17 employment, a signed waiver.

18 (2) A waiver executed under this subsection shall
19 expressly allow the prospective employing law enforcement
20 agency or municipality to contact the office to seek a copy
21 of the separation record containing the reason or reasons
22 for, and circumstances surrounding, the separation of service
23 created by the law enforcement officer's former employing law
24 enforcement agency or agencies.

25 (3) A waiver under paragraph (1) shall be executed on a
26 form provided by the office to all law enforcement agencies
27 or municipalities that employ or administer oaths of office
28 to law enforcement officers.

29 (4) The prospective employing law enforcement agency or
30 municipality shall provide the waiver executed under

1 paragraph (1) to the office.

2 (5) Upon receipt of the waiver, the office shall provide
3 a copy of the record required under section 7202 (relating to
4 maintenance of records) to the prospective employing law
5 enforcement agency or municipality within seven days.

6 (b) Record of separation condition of hiring.--A prospective
7 employing law enforcement agency or municipality may not hire a
8 law enforcement officer to whom section 7202 applies unless the
9 prospective employing law enforcement agency or municipality
10 receives the record of separation from the office.

11 (c) Good faith immunity.--

12 (1) A former employing law enforcement agency that
13 submits a record of separation under this section in good
14 faith is immune from civil liability for the disclosure.

15 (2) A former employing law enforcement agency is
16 presumed to be acting in good faith at the time of a
17 disclosure under this section unless a preponderance of the
18 evidence establishes one or more of the following:

19 (i) the former employing law enforcement agency knew
20 that the information disclosed was false or misleading;

21 (ii) the former employing law enforcement agency
22 disclosed the information with a reckless disregard for
23 the truth; or

24 (iii) the disclosure was specifically prohibited by
25 a Federal or State statute.

26 (d) Public notice required prior to hiring.--A prospective
27 employing law enforcement agency or municipality that hires an
28 officer whose record of separation includes any of the following
29 reasons or circumstances for separation shall issue a public
30 notice 14 days before the prospective employing law enforcement

1 agency or municipality takes formal action to hire the
2 prospective officer:

3 (1) Substantiated allegations, substantiated complaints
4 or completed or ongoing investigations, whether internal or
5 external, of the use of excessive force, harassment, theft,
6 discrimination, sexual abuse, sexual misconduct, domestic
7 violence, coercion of a false confession, filing a false
8 report or a judicial finding of dishonesty.

9 (2) Criminal charges related to allegations of use of
10 excessive force, harassment, theft, discrimination, sexual
11 abuse, sexual misconduct, domestic violence, coercion of a
12 false confession, filing a false report or a judicial finding
13 of dishonesty.

14 (e) Hiring report to be filed.--

15 (1) Within 14 days of a formal action to hire the
16 officer, the prospective employing law enforcement agency or
17 municipality must file a report with the office that
18 indicates the prospective employing law enforcement agency's
19 or municipality's reasoning and rationale for hiring the
20 officer.

21 (2) The hiring report shall be included in the office's
22 electronic database.

23 (3) The hiring report shall be subject to disclosure
24 under the act of February 14, 2008 (P.L.6, No.3), known as
25 the Right-to-Know Law.

26 (4) A copy of the hiring report shall be transmitted to
27 and maintained by the Pennsylvania Commission on Crime and
28 Delinquency.

29 Section 2. This act shall take effect in 60 days.