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THE GENERAL ASSEMBLY OF PENNSYLVANIA

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HOUSE BILL

No. 1666 Session of  
2019

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INTRODUCED BY RABB, WEBSTER, KINSEY, LEE, FRANKEL, GAINNEY,  
A. DAVIS, HILL-EVANS, McCLINTON, FIEDLER, BULLOCK, DAVIDSON,  
MADDEN AND WHEATLEY, JUNE 24, 2019

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REFERRED TO COMMITTEE ON JUDICIARY, JUNE 24, 2019

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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:

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

8 "Law enforcement officer." The term shall have the same  
9 meaning as the term "peace officer" under 18 Pa.C.S. § 501  
10 (relating to definitions).

11 "Office." The Office of Attorney General of the  
12 Commonwealth.

13 "Prospective employing law enforcement agency." A law  
14 enforcement agency in this Commonwealth that is considering  
15 employing a law enforcement officer who was previously employed  
16 with another law enforcement agency in this Commonwealth.  
17 § 7202. Maintenance of records.

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

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

26 (2) Records of all criminal charges filed against a law  
27 enforcement officer.

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

30 (4) The disposition of all charges and complaints,

1 including disciplinary actions, taken against a law  
2 enforcement officer.

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

7 (c) Disagreement with record accuracy.--

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

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

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

25 § 7203. Reporting.

26 (a) Electronic database.--

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

30 (2) The database shall be accessible to all law

1 enforcement agencies in this Commonwealth.

2 (3) Except as provided under section 7204(e)(3)  
3 (relating to disclosure of separation), records maintained in  
4 the database shall be exempt from disclosure under the act of  
5 February 14, 2008 (P.L.6, No.3), known as the Right-to-Know  
6 Law.

7 (4) The office shall establish a procedure by which a  
8 law enforcement agency from outside of this Commonwealth may  
9 request and obtain records of separation maintained in the  
10 database. The office shall document all requests from law  
11 enforcement agencies outside of this Commonwealth and may not  
12 make the name of any law enforcement officer subject to a  
13 request under this paragraph public. The information provided  
14 to a law enforcement agency outside of this Commonwealth  
15 shall be exempt from disclosure under the Right-to-Know Law.

16 (b) Time period to submit.--Upon the separation of an  
17 officer from a law enforcement agency, the law enforcement  
18 agency shall submit the separation record to the office within  
19 15 days of separation.

20 § 7204. Disclosure of separation.

21 (a) Waiver required.--

22 (1) A law enforcement officer who is certified or was  
23 previously certified in this Commonwealth and was previously  
24 employed as a law enforcement officer in this Commonwealth  
25 who separates from the employment and subsequently seeks to  
26 become reemployed as a law enforcement officer in this  
27 Commonwealth shall provide to the prospective employing law  
28 enforcement agency or municipality, upon an offer of  
29 employment, a signed waiver under this subsection.

30 (2) A waiver executed under this subsection shall

1 expressly allow the prospective employing law enforcement  
2 agency or municipality to contact the office to seek a copy  
3 of the separation record containing the reason or reasons  
4 for, and circumstances surrounding, the separation of service  
5 created by the law enforcement officer's former employing law  
6 enforcement agency or agencies.

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

11 (4) The prospective employing law enforcement agency or  
12 municipality shall provide the waiver executed under  
13 paragraph (1) to the office.

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

18 (b) Record of separation condition of hiring.--A prospective  
19 employing law enforcement agency or municipality may not hire a  
20 law enforcement officer to whom section 7202 applies unless the  
21 prospective employing law enforcement agency or municipality  
22 receives the record of separation from the office.

23 (c) Good faith immunity.--

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

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

1           (i) the former employing law enforcement agency knew  
2           that the information disclosed was false or misleading;  
3           (ii) the former employing law enforcement agency  
4           disclosed the information with a reckless disregard for  
5           the truth; or  
6           (iii) the disclosure was specifically prohibited by  
7           a Federal or State statute.

8           (d) Public notice required prior to hiring.--A prospective  
9           employing law enforcement agency or municipality that hires a  
10           law enforcement officer whose record of separation includes any  
11           of the following reasons or circumstances for separation shall  
12           issue a public notice 14 days before the prospective employing  
13           law enforcement agency or municipality takes formal action to  
14           hire the prospective officer:

15           (1) Substantiated allegations, substantiated complaints  
16           or completed or ongoing investigations, whether internal or  
17           external, of the use of excessive force, harassment, theft,  
18           discrimination, sexual abuse, sexual misconduct, domestic  
19           violence, coercion of a false confession, filing a false  
20           report or a judicial finding of dishonesty.

21           (2) Criminal charges related to allegations of use of  
22           excessive force, harassment, theft, discrimination, sexual  
23           abuse, sexual misconduct, domestic violence, coercion of a  
24           false confession, filing a false report or a judicial finding  
25           of dishonesty.

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

27           (1) Within 14 days of a formal action to hire a law  
28           enforcement officer subject to the notice required under  
29           subsection (d), the prospective employing law enforcement  
30           agency or municipality shall file a report with the office

1 that indicates the prospective employing law enforcement  
2 agency's or municipality's reasoning and rationale for hiring  
3 the officer.

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

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

9 (4) A copy of the hiring report shall be transmitted to  
10 and maintained by the Pennsylvania Commission on Crime and  
11 Delinquency.

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