

THE GENERAL ASSEMBLY OF PENNSYLVANIA

HOUSE BILL

No. 1841 Session of 2019

INTRODUCED BY READSHAW, KORTZ, KULIK, MILLARD, HILL-EVANS, JOHNSON-HARRELL, DeLUCA, BARRAR, A. DAVIS, CALTAGIRONE, MOUL, BOYLE, SCHWEYER, MADDEN, FITZGERALD, SCHLOSSBERG, ISAACSON, HOHENSTEIN, HOWARD, HANBIDGE, MALAGARI, ROZZI, GALLOWAY, FREEMAN, SANCHEZ, DALEY, ZABEL AND PASHINSKI, SEPTEMBER 19, 2019

AS REPORTED FROM COMMITTEE ON JUDICIARY, HOUSE OF REPRESENTATIVES, AS AMENDED, JUNE 15, 2020

AN ACT

1 ~~Providing~~ AMENDING TITLE 44 (LAW AND JUSTICE) OF THE <--  
2 PENNSYLVANIA CONSOLIDATED STATUTES, PROVIDING for law  
3 enforcement background investigations, for duties of the  
4 Municipal Police Officers' Education and Training Commission,  
5 law enforcement agencies and employers and for immunity from  
6 liability and violations.

7 The General Assembly of the Commonwealth of Pennsylvania  
8 hereby enacts as follows:

9 ~~Section 1. Short title.~~ <--

10 ~~This act shall be known and may be cited as the Law~~  
11 ~~Enforcement Background Investigations and Employment Information~~  
12 ~~Act.~~

13 ~~Section 2. Definitions.~~

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

17 ~~"Commission." The Municipal Police Officers' Education and~~

1 ~~Training Commission.~~

2 ~~"Employer." The term does not include the Commonwealth or a~~  
3 ~~political subdivision of the Commonwealth.~~

4 ~~"Employment information." Written information in connection~~  
5 ~~with job applications, performance evaluations, attendance~~  
6 ~~records, disciplinary actions and eligibility for rehire.~~

7 ~~"Law enforcement agency." A police department of a county,~~  
8 ~~city, borough, incorporated town or township or a county~~  
9 ~~district attorney's office.~~

10 ~~Section 3. Background investigation required.~~

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

17 ~~(1) Standards established by the commission.~~

18 ~~(2) Established security standards for access to~~  
19 ~~national and State computerized record and communication~~  
20 ~~systems.~~

21 ~~(b) Higher standards not precluded. The required background~~  
22 ~~investigation does not prevent a law enforcement agency from~~  
23 ~~establishing higher standards for law enforcement employees if~~  
24 ~~those standards are not contrary to applicable law.~~

25 ~~Section 4. Disclosure of employment information.~~

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

1 ~~must be:~~

2 ~~(1) in writing;~~

3 ~~(2) accompanied by an original authorization and release~~  
4 ~~signed by the employee or former employee; and~~

5 ~~(3) signed by the chief of police or other authorized~~  
6 ~~representative of the law enforcement agency conducting the~~  
7 ~~background investigation.~~

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

16 ~~(1) in writing;~~

17 ~~(2) accompanied by an original authorization and release~~  
18 ~~signed by the employee or former employee; and~~

19 ~~(3) signed by the chief of police, district attorney or~~  
20 ~~other authorized representative of the law enforcement agency~~  
21 ~~making the request.~~

22 ~~Section 5. Refusal to disclose personnel record.~~

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

1 ~~Section 6. Immunity from liability and violations.~~

2 ~~(a) General rule. In the absence of fraud or malice, a law~~  
3 ~~enforcement agency or an employer is immune from civil liability~~  
4 ~~for employment information released to a law enforcement agency~~  
5 ~~in accordance with this act or for any subsequent publication~~  
6 ~~made by the employee or former employee of employment~~  
7 ~~information released to a law enforcement agency under this act.~~

8 ~~(b) Release of information in violation of act. A law~~  
9 ~~enforcement agency or employer is not immune from civil~~  
10 ~~liability for employment information released in violation of~~  
11 ~~this act. The following apply:~~

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

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

22 ~~(i) a final determination by a court in favor of the~~  
23 ~~police officer adversely affected; or~~

24 ~~(ii) rescission of the challenged release of~~  
25 ~~information after suit has been filed under paragraph (1)~~  
26 ~~but prior to a final determination by a court.~~

27 ~~Section 7. Notice of investigation.~~

28 ~~(a) Notice to commission. Upon initiation of a background~~  
29 ~~investigation under this act, a law enforcement agency shall~~  
30 ~~give written notice to the commission of the following:~~



1 AND EMPLOYMENT INFORMATION

2 SEC.

3 7301. SCOPE OF CHAPTER.

4 7302. DEFINITIONS.

5 7303. BACKGROUND INVESTIGATION REQUIRED.

6 7304. DISCLOSURE OF EMPLOYMENT INFORMATION.

7 7305. REFUSAL TO DISCLOSE EMPLOYMENT INFORMATION.

8 7306. IMMUNITY.

9 7307. CONFIDENTIALITY AGREEMENTS AND NONDISCLOSURE.

10 7308. MAINTENANCE OF RECORDS.

11 7309. REPORTING.

12 7310. DISCLOSURE OF SEPARATION.

13 7311. HIRING REPORT.

14 7312. REGULATIONS.

15 § 7301. SCOPE OF CHAPTER.

16 THIS CHAPTER RELATES TO LAW ENFORCEMENT BACKGROUND  
17 INVESTIGATIONS AND EMPLOYMENT INFORMATION FOR LAW ENFORCEMENT  
18 OFFICERS.

19 § 7302. DEFINITIONS.

20 THE FOLLOWING WORDS AND PHRASES WHEN USED IN THIS CHAPTER  
21 SHALL HAVE THE MEANINGS GIVEN TO THEM IN THIS SECTION UNLESS THE  
22 CONTEXT CLEARLY INDICATES OTHERWISE:

23 "APPLICANT." A PERSON APPLYING FOR EMPLOYMENT AS A LAW  
24 ENFORCEMENT OFFICER OR FOR A POSITION LEADING TO EMPLOYMENT AS A  
25 LAW ENFORCEMENT OFFICER.

26 "COMMISSION." THE MUNICIPAL POLICE OFFICERS' EDUCATION AND  
27 TRAINING COMMISSION.

28 "EMPLOYMENT INFORMATION." WRITTEN INFORMATION IN CONNECTION  
29 WITH JOB APPLICATIONS, PERFORMANCE EVALUATIONS, ATTENDANCE  
30 RECORDS, DISCIPLINARY ACTIONS AND ELIGIBILITY FOR REHIRE.

1 "FINAL AND BINDING DISCIPLINARY ACTION." DISCIPLINARY ACTION  
2 IN WHICH A LAW ENFORCEMENT OFFICER VOLUNTARILY ACCEPTS  
3 DISCIPLINE OR, IN THE CASE OF APPEAL BY THE DISCIPLINED OFFICER,  
4 DISCIPLINARY ACTION IN WHICH THE APPEAL HAS BEEN EXHAUSTED OR  
5 RESOLVED BY SETTLEMENT AGREEMENT, ARBITRATION OR OTHER DISPUTE  
6 RESOLUTION MECHANISM.

7 "LAW ENFORCEMENT AGENCY." A LAW ENFORCEMENT AGENCY IN THIS  
8 COMMONWEALTH THAT IS THE EMPLOYER OF A LAW ENFORCEMENT OFFICER.

9 "LAW ENFORCEMENT OFFICER." THE TERM SHALL HAVE THE SAME  
10 MEANING AS THE TERM "PEACE OFFICER" UNDER 18 PA.C.S. § 501  
11 (RELATING TO DEFINITIONS).

12 "PROSPECTIVE EMPLOYING LAW ENFORCEMENT AGENCY." A LAW  
13 ENFORCEMENT AGENCY IN THIS COMMONWEALTH THAT IS CONSIDERING  
14 EMPLOYING A LAW ENFORCEMENT OFFICER.

15 "SEPARATION RECORDS." RECORDS REQUIRED TO BE MAINTAINED  
16 UNDER SECTION 7309 (RELATING TO REPORTING).  
17 § 7303. BACKGROUND INVESTIGATION REQUIRED.

18 (A) GENERAL RULE.--A PROSPECTIVE EMPLOYING LAW ENFORCEMENT  
19 AGENCY SHALL CONDUCT A THOROUGH BACKGROUND INVESTIGATION ON AN  
20 APPLICANT FOR EMPLOYMENT AS A LAW ENFORCEMENT OFFICER OR AN  
21 APPLICANT, INCLUDING A REVIEW OF THE APPLICANT'S EMPLOYMENT  
22 INFORMATION AND SEPARATION RECORDS, IF APPLICABLE, IN ACCORDANCE  
23 WITH THIS CHAPTER, BEFORE THE APPLICANT MAY BE EMPLOYED. THE  
24 BACKGROUND INVESTIGATION SHALL DETERMINE AT A MINIMUM WHETHER  
25 THE APPLICANT MEETS THE STANDARDS ESTABLISHED BY THE COMMISSION.

26 (B) HIGHER STANDARDS NOT PRECLUDED.--THE REQUIRED BACKGROUND  
27 INVESTIGATION DOES NOT PREVENT A LAW ENFORCEMENT AGENCY FROM  
28 ESTABLISHING HIGHER STANDARDS FOR LAW ENFORCEMENT EMPLOYEES IF  
29 THOSE STANDARDS ARE NOT CONTRARY TO APPLICABLE LAW.  
30 § 7304. DISCLOSURE OF EMPLOYMENT INFORMATION.

1 UPON REQUEST OF A PROSPECTIVE EMPLOYING LAW ENFORCEMENT  
2 AGENCY, A LAW ENFORCEMENT AGENCY SHALL DISCLOSE OR OTHERWISE  
3 MAKE AVAILABLE FOR INSPECTION EMPLOYMENT INFORMATION OF AN  
4 APPLICANT WHO IS THE SUBJECT OF A BACKGROUND INVESTIGATION UNDER  
5 THIS CHAPTER. THE REQUEST FOR DISCLOSURE OF EMPLOYMENT  
6 INFORMATION MUST BE:

7 (1) IN WRITING;

8 (2) ACCOMPANIED BY AN ORIGINAL AUTHORIZATION AND RELEASE  
9 SIGNED BY THE APPLICANT; AND

10 (3) SIGNED BY THE CHIEF OF POLICE OR OTHER AUTHORIZED  
11 REPRESENTATIVE OF THE PROSPECTIVE EMPLOYING LAW ENFORCEMENT  
12 AGENCY CONDUCTING THE BACKGROUND INVESTIGATION.

13 § 7305. REFUSAL TO DISCLOSE EMPLOYMENT INFORMATION.

14 IF A LAW ENFORCEMENT AGENCY REFUSES TO DISCLOSE EMPLOYMENT  
15 INFORMATION TO A PROSPECTIVE EMPLOYING LAW ENFORCEMENT AGENCY IN  
16 ACCORDANCE WITH THIS CHAPTER, THE PROSPECTIVE EMPLOYING LAW  
17 ENFORCEMENT AGENCY MAY PETITION COMMONWEALTH COURT TO ISSUE AN  
18 ORDER DIRECTING THE DISCLOSURE OF THE EMPLOYMENT INFORMATION.  
19 THE PETITION MUST INCLUDE A COPY OF THE ORIGINAL REQUEST FOR  
20 DISCLOSURE AND THE AUTHORIZATION AND RELEASE SIGNED BY THE  
21 APPLICANT.

22 § 7306. IMMUNITY.

23 (A) GENERAL RULE.--IN THE ABSENCE OF FRAUD OR MALICE, A LAW  
24 ENFORCEMENT AGENCY IS IMMUNE FROM CIVIL LIABILITY FOR EMPLOYMENT  
25 INFORMATION RELEASED TO A PROSPECTIVE EMPLOYING LAW ENFORCEMENT  
26 AGENCY IN ACCORDANCE WITH THIS CHAPTER OR FOR ANY SUBSEQUENT  
27 PUBLICATION MADE BY THE PROSPECTIVE EMPLOYING LAW ENFORCEMENT  
28 AGENCY OR THE APPLICANT OF EMPLOYMENT INFORMATION RELEASED TO A  
29 LAW ENFORCEMENT AGENCY UNDER THIS CHAPTER.

30 (B) RELEASE IN VIOLATION OF CHAPTER.--

1           (1) A LAW ENFORCEMENT AGENCY IS NOT IMMUNE FROM CIVIL  
2 LIABILITY FOR EMPLOYMENT INFORMATION RELEASED IN VIOLATION OF  
3 THIS CHAPTER.

4           (2) AN APPLICANT ADVERSELY AFFECTED BY THE RELEASE OF  
5 EMPLOYMENT INFORMATION IN VIOLATION OF THIS CHAPTER MAY SEEK  
6 DECLARATIVE AND INJUNCTIVE RELIEF AND ACTUAL AND PUNITIVE  
7 DAMAGES ATTRIBUTABLE TO THE VIOLATION IN AN APPROPRIATE  
8 COURT.

9           (3) THE COURT SHALL AWARD REASONABLE EXPENSES, INCLUDING  
10 ATTORNEY FEES, COURT COSTS AND COMPENSATION FOR LOSS OF  
11 INCOME, TO THE APPLICANT ADVERSELY AFFECTED IF AN ACTION  
12 UNDER PARAGRAPH (2) RESULTS IN:

13           (I) A FINAL DETERMINATION BY A COURT IN FAVOR OF THE  
14 LAW ENFORCEMENT OFFICER ADVERSELY AFFECTED; OR

15           (II) RESCISSION OF THE CHALLENGED RELEASE OF  
16 INFORMATION AFTER SUIT HAS BEEN FILED UNDER PARAGRAPH (2)  
17 BUT PRIOR TO A FINAL DETERMINATION BY A COURT.

18 § 7307. CONFIDENTIALITY AGREEMENTS AND NONDISCLOSURE.

19           (A) WHEN AGREEMENT EXISTS.--IF EMPLOYMENT INFORMATION IS  
20 SUBJECT TO A CONFIDENTIALITY AGREEMENT BETWEEN THE APPLICANT AND  
21 A LAW ENFORCEMENT AGENCY, THE APPLICANT SHALL DISCLOSE TO THE  
22 PROSPECTIVE EMPLOYING LAW ENFORCEMENT AGENCY THE FACT THAT A  
23 CONFIDENTIALITY AGREEMENT EXISTS.

24           (B) WHEN AGREEMENT IS ABSENT AND APPLICANT AUTHORIZES  
25 RELEASE.--IF THE APPLICANT HAS AUTHORIZED THE RELEASE OF  
26 EMPLOYMENT INFORMATION WITHOUT REGARD TO A PREVIOUS AGREEMENT TO  
27 THE CONTRARY, THE LAW ENFORCEMENT AGENCY MAY DISCLOSE THE  
28 EMPLOYMENT INFORMATION IN ACCORDANCE WITH THIS CHAPTER.

29           (C) EMPLOYMENT INFORMATION SEALED OR SUBJECT TO COURT  
30 ORDER.--IF EMPLOYMENT INFORMATION IS SEALED OR OTHERWISE SUBJECT

1 TO A NONDISCLOSURE ORDER BY A COURT OF COMPETENT JURISDICTION,  
2 THE LAW ENFORCEMENT AGENCY SHALL DISCLOSE TO THE PROSPECTIVE  
3 EMPLOYING LAW ENFORCEMENT AGENCY THE FACT THAT A NONDISCLOSURE  
4 ORDER EXISTS, ALONG WITH INFORMATION IDENTIFYING THE COURT AND  
5 CASE NUMBER.

6 § 7308. MAINTENANCE OF RECORDS.

7 (A) GENERAL RULE.--IN ADDITION TO ANY OTHER EMPLOYMENT  
8 INFORMATION REQUIRED TO BE MAINTAINED UNDER CURRENT LAW AND  
9 REGULATION, A LAW ENFORCEMENT AGENCY SHALL MAINTAIN THE  
10 FOLLOWING SEPARATION RECORDS:

11 (1) RECORDS OF THE REASON OR REASONS FOR, AND  
12 CIRCUMSTANCES SURROUNDING, A SEPARATION OF SERVICE FOR A LAW  
13 ENFORCEMENT OFFICER ON A FORM DEVELOPED BY THE COMMISSION AND  
14 MADE AVAILABLE ON ITS PUBLICLY ACCESSIBLE INTERNET WEBSITE.

15 (2) RECORDS OF ALL CRIMINAL CHARGES FILED AGAINST A LAW  
16 ENFORCEMENT OFFICER.

17 (3) RECORDS OF ALL CIVIL OR ETHICAL COMPLAINTS MADE  
18 AGAINST A LAW ENFORCEMENT OFFICER.

19 (4) RECORDS OF THE DISPOSITION OF ALL CHARGES AND  
20 COMPLAINTS, INCLUDING FINAL AND BINDING DISCIPLINARY ACTIONS,  
21 TAKEN BY THE LAW ENFORCEMENT AGENCY AGAINST A LAW ENFORCEMENT  
22 OFFICER, INCLUDING IMPOSITION OF PROBATIONARY OR OTHER  
23 CONDITIONS RELATED TO EMPLOYMENT.

24 (B) REVIEW OF SEPARATION RECORDS.--A LAW ENFORCEMENT OFFICER  
25 MAY REVIEW A SEPARATION RECORD UPON THE REQUEST OF THE LAW  
26 ENFORCEMENT OFFICER ON A FORM DEVELOPED BY THE COMMISSION AND  
27 MADE AVAILABLE ON THE LAW ENFORCEMENT AGENCY'S PUBLICLY  
28 ACCESSIBLE INTERNET WEBSITE.

29 (C) DISAGREEMENT WITH RECORD ACCURACY.--

30 (1) IF A LAW ENFORCEMENT OFFICER DISAGREES WITH THE

1 ACCURACY OF THE CONTENTS OF A SEPARATION RECORD, THE LAW  
2 ENFORCEMENT OFFICER MAY REQUEST THE CORRECTION OR REMOVAL OF  
3 THE PORTION OF THE RECORD BELIEVED TO BE INCORRECT. THE  
4 REQUEST MUST BE MADE IN WRITING USING A FORM DEVELOPED BY THE  
5 COMMISSION AND AVAILABLE ON THE COMMISSION'S PUBLICLY  
6 ACCESSIBLE INTERNET WEBSITE. THE LAW ENFORCEMENT AGENCY SHALL  
7 PROVIDE WRITTEN REASONS FOR CORRECTION OR REMOVAL OF A  
8 PORTION OF THE RECORD, OR OF THE REFUSAL TO DO SO.

9 (2) IF THE LAW ENFORCEMENT AGENCY AND THE LAW  
10 ENFORCEMENT OFFICER CANNOT REACH AN AGREEMENT ON THE CONTENTS  
11 OF THE RECORD, THE LAW ENFORCEMENT OFFICER MAY SUBMIT A  
12 WRITTEN STATEMENT EXPLAINING THE LAW ENFORCEMENT OFFICER'S  
13 POSITION AND THE BASIS FOR THE DISAGREEMENT. THE STATEMENT  
14 SHALL BE KEPT WITH AND PART OF THE SEPARATION RECORDS  
15 REQUIRED UNDER THIS SECTION AND PROVIDED WITH THE REST OF THE  
16 CONTENTS OF THE SEPARATION RECORDS AS REQUIRED UNDER SECTION  
17 7310 (RELATING TO DISCLOSURE OF SEPARATION).

18 § 7309. REPORTING.

19 (A) ELECTRONIC DATABASE.--

20 (1) THE COMMISSION SHALL ESTABLISH AND MAINTAIN AN  
21 ELECTRONIC DATABASE CONTAINING THE SEPARATION RECORDS.

22 (2) THE DATABASE SHALL BE ACCESSIBLE TO ALL LAW  
23 ENFORCEMENT AGENCIES IN THIS COMMONWEALTH.

24 (3) EXCEPT AS PROVIDED UNDER SECTION 7311(C) (RELATING  
25 TO HIRING REPORT), SEPARATION RECORDS MAINTAINED IN THE  
26 DATABASE SHALL BE EXEMPT FROM DISCLOSURE UNDER THE ACT OF  
27 FEBRUARY 14, 2008 (P.L.6, NO.3), KNOWN AS THE RIGHT-TO-KNOW  
28 LAW.

29 (B) PROCEDURE.--THE COMMISSION SHALL ESTABLISH A PROCEDURE  
30 BY WHICH A LAW ENFORCEMENT AGENCY MAY REQUEST AND REVIEW

1 SEPARATION RECORDS IN THE DATABASE FOR THE PURPOSE OF EMPLOYING  
2 AN APPLICANT.

3 (C) REQUEST LOG.--THE COMMISSION SHALL LOG ALL REQUESTS FROM  
4 LAW ENFORCEMENT AGENCIES FOR SEPARATION RECORDS AND MAY NOT  
5 DISCLOSE THE NAME OF ANY LAW ENFORCEMENT OFFICER SUBJECT TO A  
6 REQUEST FOR SEPARATION RECORDS TO THE PUBLIC. THE INFORMATION  
7 PROVIDED TO A LAW ENFORCEMENT AGENCY, INCLUDING A LAW  
8 ENFORCEMENT AGENCY OUTSIDE OF THIS COMMONWEALTH, SHALL BE EXEMPT  
9 FROM DISCLOSURE UNDER THE RIGHT-TO-KNOW LAW.

10 (D) TIME PERIOD TO SUBMIT.--UPON THE SEPARATION OF AN  
11 OFFICER FROM A LAW ENFORCEMENT AGENCY, THE LAW ENFORCEMENT  
12 AGENCY SHALL SUBMIT THE SEPARATION RECORDS TO THE COMMISSION  
13 WITHIN 15 DAYS OF SEPARATION.

14 (E) GOOD FAITH IMMUNITY.--

15 (1) A FORMER EMPLOYING LAW ENFORCEMENT AGENCY THAT  
16 SUBMITS A SEPARATION RECORD TO THE DATABASE IN GOOD FAITH IS  
17 IMMUNE FROM CIVIL LIABILITY FOR THE SUBSEQUENT DISCLOSURE OF  
18 THAT RECORD FROM THE DATABASE.

19 (2) A LAW ENFORCEMENT AGENCY IS PRESUMED TO BE ACTING IN  
20 GOOD FAITH AT THE TIME OF A DISCLOSURE UNDER THIS CHAPTER  
21 UNLESS A PREPONDERANCE OF THE EVIDENCE ESTABLISHES ONE OR  
22 MORE OF THE FOLLOWING:

23 (I) THE LAW ENFORCEMENT AGENCY KNEW THAT THE  
24 SEPARATION RECORD WAS FALSE OR MISLEADING;

25 (II) THE LAW ENFORCEMENT AGENCY SUBMITTED THE  
26 SEPARATION RECORD WITH A RECKLESS DISREGARD FOR THE  
27 TRUTH; OR

28 (III) SUBMISSION OF THE SEPARATION RECORD WAS  
29 SPECIFICALLY PROHIBITED BY A FEDERAL OR STATE LAW.

30 § 7310. DISCLOSURE OF SEPARATION.

1 (A) WAIVER REQUIRED.--

2 (1) AN APPLICANT SHALL PROVIDE TO THE PROSPECTIVE  
3 EMPLOYING LAW ENFORCEMENT AGENCY, UPON AN OFFER OF  
4 EMPLOYMENT, A SIGNED WAIVER UNDER THIS SECTION.

5 (2) THE WAIVER SHALL EXPRESSLY ALLOW THE PROSPECTIVE  
6 EMPLOYING LAW ENFORCEMENT AGENCY TO CONTACT THE COMMISSION TO  
7 SEEK A COPY OF ANY SEPARATION RECORD.

8 (3) THE WAIVER SHALL CONSIST OF A FORM DEVELOPED BY THE  
9 COMMISSION AND MADE AVAILABLE ON THE COMMISSION'S PUBLICLY  
10 ACCESSIBLE INTERNET WEBSITE.

11 (4) THE PROSPECTIVE EMPLOYING LAW ENFORCEMENT AGENCY  
12 SHALL PROVIDE THE SIGNED WAIVER TO THE COMMISSION.

13 (5) UPON RECEIPT OF THE SIGNED WAIVER, THE COMMISSION  
14 SHALL, WITHIN SEVEN DAYS, PROVIDE A COPY OF ANY SEPARATION  
15 RECORD RELATING TO THE APPLICANT TO THE PROSPECTIVE EMPLOYING  
16 LAW ENFORCEMENT AGENCY OR CERTIFY THAT NO SEPARATION RECORD  
17 IS IN THE DATABASE.

18 (B) RECORD OF SEPARATION CONDITION OF HIRING.--A PROSPECTIVE  
19 EMPLOYING LAW ENFORCEMENT AGENCY MAY NOT HIRE AN APPLICANT UNTIL  
20 THE PROSPECTIVE EMPLOYING LAW ENFORCEMENT AGENCY RECEIVES A COPY  
21 OF THE SEPARATION RECORD OR CERTIFICATION OF NO SEPARATION  
22 RECORD FROM THE COMMISSION.

23 § 7311. HIRING REPORT.

24 (A) INFORMATION REQUIRED TO BE REPORTED.--IF A PROSPECTIVE  
25 EMPLOYING LAW ENFORCEMENT AGENCY HIRES AN APPLICANT WHOSE  
26 SEPARATION RECORDS INCLUDES ANY OF THE FOLLOWING, THE LAW  
27 ENFORCEMENT AGENCY SHALL FILE A REPORT WITH THE COMMISSION THAT  
28 INDICATES THE PROSPECTIVE EMPLOYING LAW ENFORCEMENT AGENCY'S  
29 REASONING AND RATIONALE FOR HIRING THE APPLICANT:

30 (1) FINAL AND BINDING DISCIPLINARY ACTION BASED ON ANY

1 OF THE FOLLOWING:

2 (I) EXCESSIVE FORCE;

3 (II) HARASSMENT;

4 (III) THEFT;

5 (IV) DISCRIMINATION;

6 (V) SEXUAL ABUSE;

7 (VI) SEXUAL MISCONDUCT;

8 (VII) DOMESTIC VIOLENCE;

9 (VIII) COERCION OF A FALSE CONFESSION;

10 (IX) FILING A FALSE REPORT; OR

11 (X) A JUDICIAL FINDING OF DISHONESTY.

12 (2) A CRIMINAL CONVICTION RELATING TO CONDUCT DESCRIBED  
13 IN PARAGRAPH (1).

14 (B) ELECTRONIC DATABASE OF COMMISSION.--

15 (1) THE HIRING REPORT SHALL BE INCLUDED IN THE  
16 COMMISSION'S ELECTRONIC DATABASE.

17 (2) THE HIRING REPORT SHALL BE ON A FORM DEVELOPED BY  
18 THE COMMISSION AND MADE AVAILABLE ON THE COMMISSION'S  
19 PUBLICLY ACCESSIBLE INTERNET WEBSITE.

20 (C) SUBJECT TO DISCLOSURE.--THE HIRING REPORT SHALL BE  
21 SUBJECT TO DISCLOSURE UNDER THE ACT OF FEBRUARY 14, 2008 (P.L.6,  
22 NO.3), KNOWN AS THE RIGHT-TO-KNOW LAW.  
23 § 7312. REGULATIONS.

24 (A) TEMPORARY REGULATIONS.--IN ORDER TO FACILITATE THE  
25 PROMPT IMPLEMENTATION OF THIS CHAPTER, THE COMMISSION SHALL  
26 PROMULGATE TEMPORARY REGULATIONS WITHIN SIX MONTHS OF THE  
27 EFFECTIVE DATE OF THIS SECTION THAT SHALL EXPIRE NO LATER THAN  
28 TWO YEARS FOLLOWING THE PUBLICATION OF THE TEMPORARY  
29 REGULATIONS. THE DEPARTMENT SHALL PROMULGATE TEMPORARY  
30 REGULATIONS NOT SUBJECT TO:

1           (1) SECTION 612 OF THE ACT OF APRIL 9, 1929 (P.L.177,  
2 NO.175), KNOWN AS THE ADMINISTRATIVE CODE OF 1929.

3           (2) SECTIONS 201, 202, 203, 204 AND 205 OF THE ACT OF  
4 JULY 31, 1968 (P.L.769, NO.240), REFERRED TO AS THE  
5 COMMONWEALTH DOCUMENTS LAW.

6           (3) SECTIONS 204(B) AND 301(10) OF THE ACT OF OCTOBER  
7 15, 1980 (P.L.950, NO.164), KNOWN AS THE COMMONWEALTH  
8 ATTORNEYS ACT.

9           (4) THE ACT OF JUNE 25, 1982 (P.L.633, NO.181), KNOWN AS  
10 THE REGULATORY REVIEW ACT.

11       (B) PUBLICATION.--THE COMMISSION SHALL TRANSMIT THE  
12 TEMPORARY REGULATIONS TO THE LEGISLATIVE REFERENCE BUREAU FOR  
13 PUBLICATION IN THE PENNSYLVANIA BULLETIN NO LATER THAN SIX  
14 MONTHS AFTER THE EFFECTIVE DATE OF THIS SECTION.

15       (C) CONTENTS.--THE COMMISSION SHALL, BY REGULATION,  
16 INCLUDING TEMPORARY REGULATION, ESTABLISH THE FOLLOWING:

17           (1) PROCEDURES TO GUARANTEE THE CONFIDENTIALITY OF  
18 EMPLOYMENT INFORMATION AND SEPARATION RECORDS.

19           (2) PROCEDURES TO GUARANTEE THE SECURITY OF THE DATABASE  
20 ESTABLISHED UNDER THIS CHAPTER.

21           (3) REPORTABLE DISCIPLINARY ACTIONS AND CRIMINAL CONDUCT  
22 FALLING WITHIN THE SCOPE OF SECTION 7311 (RELATING TO HIRING  
23 REPORT).

24           (4) ANY OTHER PROCEDURE DEEMED NECESSARY BY THE  
25 COMMISSION FOR IMPLEMENTATION OF THIS CHAPTER.

26 SECTION 2. THIS ACT SHALL TAKE EFFECT AS FOLLOWS:

27           (1) EXCEPT AS PROVIDED IN PARAGRAPH (2), THE ADDITION OF  
28 44 PA.C.S. CH. 73 SHALL TAKE EFFECT IN ONE YEAR.

29           (2) THE ADDITION OF 44 PA.C.S. § 7312 SHALL TAKE EFFECT  
30 IN 60 DAYS.

1

(3) THIS SECTION SHALL TAKE EFFECT IMMEDIATELY.