

Stricken language would be deleted from and underlined language would be added to present law.

State of Arkansas
92nd General Assembly
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A Bill

HOUSE BILL 1248

By: Representative Tosh
By: Senator T. Garner

For An Act To Be Entitled

AN ACT CONCERNING LAW ENFORCEMENT OFFICERS AND LAW
ENFORCEMENT AGENCIES; CONCERNING THE ARKANSAS
COMMISSION ON LAW ENFORCEMENT STANDARDS AND TRAINING;
AND FOR OTHER PURPOSES.

Subtitle

CONCERNING LAW ENFORCEMENT OFFICERS AND
LAW ENFORCEMENT AGENCIES; AND CONCERNING
THE ARKANSAS COMMISSION ON LAW
ENFORCEMENT STANDARDS AND TRAINING.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF ARKANSAS:

SECTION 1. Arkansas Code § 12-9-118 is amended to read as follows:

12-9-118. New or inactive law enforcement agency – Approval by
commission required – Definition.

(a) As used in this section, “inactive law enforcement agency” means a law enforcement agency that existed and operated under a state law or local ordinance in the past but that currently does not exist or has not operated for at least one (1) year.

(b) The chief executive officer of an entity authorized by ~~ordinance~~ law to create a new law enforcement agency or reactivate an inactive law enforcement agency shall appear before the Arkansas Commission on Law Enforcement Standards and Training to request the creation of the new law enforcement agency or reactivation of the inactive law enforcement agency and present the ~~ordinance~~ law and documentation regarding:



(1) The funding mechanism, funding source or sources, and current budget proposal for the law enforcement agency;

(2) The proposed or enacted law enforcement agency policies, including without limitation policies regarding:

(A) Use of force;

(B) Vehicle pursuit;

(C) Professional conduct of law enforcement officers to be employed by the law enforcement agency; and

(D) Biased-based policing;

(3) The administrative structure and organizational chart of the law enforcement agency; and

(4) Any other information or documentation required by the commission.

(c) After the appearance and presentation under subsection (b) of this section, the commission shall approve or disapprove the request to create the new law enforcement agency or reactivate the inactive law enforcement agency.

SECTION 2. Arkansas Code § 12-9-209 is amended to read as follows:

12-9-209. ~~Counties, cities, etc.~~— Reimbursement for training costs.

(a)(1) If a county, city, ~~or town~~, or state agency pays the cost or expenses for training a law enforcement officer at a state-funded law enforcement training academy and another county, city, ~~or town~~, or state agency employs that law enforcement officer within eighteen (18) months after completion of the training in a position requiring a certificate of training from the state-funded law enforcement training academy, the ~~state agency~~, county, city, ~~or town~~, or state agency so employing the law enforcement officer, at the time of employing the law enforcement officer, shall reimburse the county, city, ~~or town~~, or state agency for all or a portion of the expenses incurred by the county, city, ~~or town~~, or state agency for the training of the law enforcement officer at the state-funded law enforcement training academy, unless the law enforcement officer has been terminated by the county, city, ~~or town~~, or state agency that paid the costs or expenses of training, in which case no reimbursement is required from the county, city, town, or state agency hiring the law enforcement officer.

(2) Reimbursement may be sought only from the first county, city, town, or state agency that employed the law enforcement officer after

the county, city, ~~or town~~, or state agency paid the costs or expenses of training.

(3) Reimbursement shall include any salary, travel expenses, food, lodging, or other costs required to be paid by the county, city, ~~or town~~, or state agency, as follows:

(A) If the person is employed within two (2) months after completion of the training, the employing agency shall reimburse the total cost of the training;

(B) If the person is employed more than two (2) months but not more than six (6) months after completion of the training, the employing agency shall reimburse eighty percent (80%) of the cost of the training;

(C) If the person is employed more than six (6) months but not more than ten (10) months after completion of the training, the employing agency shall reimburse sixty percent (60%) of the cost of the training;

(D) If the person is employed more than ten (10) months but not more than fourteen (14) months after completion of the training, the employing agency shall reimburse forty percent (40%) of the cost of the training; or

(E) If the person is employed more than fourteen (14) months but not more than eighteen (18) months after completion of the training, the employing agency shall reimburse twenty percent (20%) of the cost of the training.

(b)(1) If any county, city, town, or state agency which employs an officer whose training expense was paid by another county, city, ~~or town~~, or state agency fails to make reimbursement for the expenses as required in subsection (a) of this section, the county, city, ~~or town~~, or state agency entitled to reimbursement shall notify the Treasurer of State.

(2) The Treasurer of State shall then withhold the amount of the reimbursement due for training the officer from the county or municipal aid of the employing county, city, ~~or town~~, or state agency or from funds appropriated to the employing state agency and shall remit the amount to the county, city, ~~or town~~, or state agency which is entitled to the reimbursement under the provisions of this section.

SECTION 3. Arkansas Code § 12-9-301(7), concerning the definition of "part-time law enforcement officer", is amended to read as follows:

(7) "Part-time law enforcement officer" means, as applied to employment and training requirements, ~~any officer working less than twenty~~ ~~(20)~~ a law enforcement officer who works twenty-four (24) hours per week or less and ~~receiving~~ receives a salary from the employing law enforcement agency; and

SECTION 4. Arkansas Code § 12-9-304(a), concerning appointment and training standards for an auxiliary law enforcement officer, is amended to read as follows:

(a)(1) ~~No person shall be appointed~~ A person shall not function as an auxiliary law enforcement officer until the minimum standards for appointment and training requirements have been completed.

(2) ~~Any~~ An auxiliary law enforcement officer who has not met ~~these~~ the minimum standards for appointment and training requirements shall have no law enforcement authority except that which is authorized for a private citizen.

SECTION 5. Arkansas Code § 12-9-307 is amended to read as follows:
12-9-307. Benefits.

(a) The auxiliary law enforcement officer or the governing political subdivision may elect to join the workers' compensation system for the benefit of the auxiliary law enforcement officer, and the auxiliary law enforcement officer may receive benefits therefrom as provided by statutes.

~~(b) Auxiliary law enforcement officers shall have no claim to the benefits of any police retirement and pension funds in this state. Any claim presented by an auxiliary law enforcement officer for benefits from any police retirement and pension fund shall be held null and void.~~

~~(e)~~(b) The political subdivision may elect to provide liability insurance, uniforms, and such other equipment as may be necessary to perform the assigned tasks, and these provisions shall not be considered as salary or wages.

~~(d)~~(c) An auxiliary law enforcement officer may receive such compensation, per diem, expenses, or other allowances for his or her services, for such purposes as transporting juveniles, as may be agreed to by the appointing authority.

SECTION 6. Arkansas Code § 12-9-401 is amended to read as follows:
12-9-401. Definitions.

As used in this subchapter:

~~(1) “Commission” means the Arkansas Commission on Law Enforcement Standards and Training as established by § 12-9-103;~~

~~(2)(1)~~ (1) “Full-time law enforcement officer” means any county sheriff, or any other law enforcement officer employed by a law enforcement agency who works ~~forty (40) or more hours per week~~ more than twenty-four (24) hours per week and receives a salary from the law enforcement agency;

~~(3)(2)~~ (2) “Law enforcement agency” means any police force or organization whose primary responsibility as established by statute or ordinance is the enforcement of the criminal, traffic, or highway laws of this state;

~~(4)(3)~~ (3) “Law enforcement officer” means any appointed law enforcement officer or county sheriff who is responsible for the prevention and detection of crime and the enforcement of the criminal, traffic, or highway laws of this state;

~~(5)(4)~~ (4) “Part-time law enforcement officer” means ~~any officer working less than twenty (20)~~ a law enforcement officer who works twenty-four (24) hours per week or less and ~~receiving~~ receives a salary from the employing law enforcement agency;

~~(6)(5)~~ (5) “Police traffic radar” means any speed measurement device utilizing the Doppler principle or an infrared light system to measure the speed of motor vehicles; and

~~(7)(6)~~ (6) “Political subdivision” means any county, municipality, township, or other specific local unit of general government.

SECTION 7. Arkansas Code § 12-9-403 is amended to read as follows:
12-9-403. Appointment and training.

(a) ~~No person shall~~ A person shall not be appointed as a police traffic radar operator or police traffic radar instructor until the minimum standards for training requirements have been completed.

(b) The training requirements for police traffic radar operators or police traffic radar instructors shall be established by the Arkansas Commission on Law Enforcement Standards and Training.

(c) The commission ~~may~~ shall issue a certificate evidencing

~~satisfactory completion of the requirements of this subchapter when a law enforcement officer's certification to operate a police traffic radar after~~ evidence is submitted by the law enforcement agency director, chief, or county sheriff that the police traffic radar operator has met the training requirements.

(d) ~~Nothing in this section shall be construed to~~ This section does not preclude any law enforcement agency from establishing qualifications and standards for appointing and training of police traffic radar operators and police traffic radar instructors that exceed those set by this subchapter or by the commission.

(e) ~~Any~~ A police traffic radar operator or police traffic radar instructor failing to meet the training requirements as set forth in this subchapter shall lose his or her authority to operate a police traffic radar for enforcement purposes.

(f) A law enforcement officer shall complete the commission-required training for law enforcement officer certification before being eligible for certification as a police traffic radar operator.

(g) Only a full-time law enforcement officer, ~~part-time I law enforcement officer, part-time II~~ part-time law enforcement officer, or an auxiliary law enforcement officer appointed as a reserve law enforcement officer as defined by commission rule is eligible for certification as a police traffic radar operator.

SECTION 8. Arkansas Code § 12-9-602 is amended to read as follows:

12-9-602. Notice of employment, appointment, or separation – Response by the law enforcement officer – Duty of commission.

(a)(1)~~(A)~~ An employing agency shall immediately notify the Arkansas Commission on Law Enforcement Standards and Training, ~~in writing, on a form~~ in a manner adopted by the commission, of the employment or appointment, or separation from employment or appointment, of any law enforcement officer.

~~(B) The employing agency must maintain the original form and submit, or electronically transmit, a copy of the form to the commission.~~

(2) Separation from employment or appointment includes any firing, termination, resignation, retirement, or voluntary or involuntary extended leave of absence of any law enforcement officer.

(3) A submission to the commission related to the employment or

appointment, or separation from employment or appointment, of a law enforcement officer is subject to the provisions of § 5-53-103 concerning false swearing.

(b)(1)~~(A)~~ In a case of separation from employment or appointment, the employing agency shall ~~execute and maintain an affidavit of separation form adopted by the commission~~ notify the commission in a manner adopted by the commission, setting forth in detail the facts and reasons for ~~such the~~ separation.

~~(B) A copy of the affidavit of separation form must be submitted, or electronically transmitted, to the commission.~~

~~(C) The affidavit must be executed under oath and subject to the provisions of § 5-53-103 concerning false swearing.~~

(2) In a case of a separation from employment or appointment for one (1) of the following reasons, the notice shall state that:

(A) The law enforcement officer was separated for his or her failure to meet the minimum qualifications for employment or appointment as a law enforcement officer;

(B) The law enforcement officer was dismissed for a violation of state or federal law;

(C) The law enforcement officer was dismissed for a violation of the regulations of the law enforcement agency; or

(D) The law enforcement officer resigned while he or she was the subject of a pending internal investigation.

(3) Any law enforcement officer who has separated from employment or appointment ~~must~~ shall be permitted to respond to the separation, in writing, to the commission, setting forth the facts and reasons for the separation as he or she understands them.

(c)(1) Before employing or appointing a law enforcement officer, a subsequent employing agency ~~must~~ shall contact the commission to inquire as to the facts and reasons a law enforcement officer became separated from any previous employing agency.

(2) The commission shall, ~~upon request and without prejudice, provide to the subsequent employing agency all information that is required under subsections (a) and (b) of this section and that is in its possession~~ provide subsequent employing agencies with all information in the commission's possession resulting from the requirements of subsection (b) of

this section.

(d)(1) An administrator of an employing agency who discloses information ~~pursuant to~~ under this section is immune from civil liability for such disclosure or its consequences.

(2) ~~No employing agency shall be~~ An employing agency is not civilly liable for disclosure of information under this subchapter or performing any other duties under this subchapter.

(e)(1) The commission, its members, and its employees who disclose information ~~pursuant to~~ under this section are immune from civil liability for such disclosure or its consequences.

(2) The commission, its members, and its employees ~~shall not be~~ are not civilly liable for:

- (A) Disclosure of information under this subchapter; or
- (B) Performing any other duties under this subchapter.

SECTION 9. Arkansas Code § 12-9-603 is amended to read as follows:
12-9-603. Certification review.

~~The Arkansas Commission on Law Enforcement Standards and Training shall review the certification of a law enforcement officer to determine whether the certification should be suspended or revoked if an employing agency reports the law enforcement officer was separated from employment or appointment for one (1) of the reasons specified in § 12-9-602(b)(2)~~ When an employing agency reports that a law enforcement officer was separated from employment or appointment for one (1) or more of the reasons specified in § 12-9-602(b)(2), the Arkansas Commission on Law Enforcement Standards and Training shall review the certification of the law enforcement officer, the law enforcement officer's eligibility for certification, and the law enforcement officer's ability to act as a law enforcement officer, to determine whether to suspend or revoke the law enforcement officer's:

- (1) Certification;
- (2) Eligibility for certification; or
- (3) Ability to act as a law enforcement officer.

SECTION 10. Arkansas Code § 14-14-1314(a)(2), concerning constable training requirements for a constable holding office on July 31, 2007, is amended to read as follows:

(2) A constable holding office on July 31, 2007, is exempt from the requirements of subdivision (a)(1) of this section if the constable has completed:

(A) The Part-time Law Enforcement ~~Officer II training~~ Officer training or higher level training course; and

(B) Mandatory racial profiling courses.

SECTION 11. Arkansas Code § 16-90-1416 is amended to read as follows:
16-90-1416. Release of sealed records.

(a) The custodian of a sealed record shall not disclose the existence of the sealed record or release the sealed record except when requested by:

(1) The person whose record was sealed or the person's attorney when authorized in writing by the person;

(2) A criminal justice agency, as defined in § 12-12-1001, and the request is accompanied by a statement that the request is being made in conjunction with:

(A) An application for employment with the criminal justice agency by the person whose record has been sealed; or

(B) A criminal background check under the Polygraph Examiners Licensing Act, § 17-39-101 et seq., or the Private Security Agency, Private Investigator, and School Security Licensing and Credentialing Act, § 17-40-101 et seq.;

(3) A court, upon a showing of:

(A) A subsequent adjudication of guilt of the person whose record has been sealed; or

(B) Another good reason shown to be in the interests of justice;

(4) A prosecuting attorney, and the request is accompanied by a statement that the request is being made for a criminal justice purpose;

(5) A state agency or board engaged in the licensing of healthcare professionals; ~~or~~

(6) The Arkansas Crime Information Center; or

(7) The Arkansas Commission on Law Enforcement Standards and Training.

(b)(1) As used in this section, "custodian" does not mean the Arkansas Crime Information Center.

(2) Access to data maintained by the center shall be governed by § 12-12-1001 et seq.

SECTION 12. Arkansas Code § 16-90-1417(b)(2), concerning the effect of sealing under the Comprehensive Criminal Record Sealing Act of 2013, is amended to read as follows:

(2) This subchapter does not prevent the use of the record of a prior conviction otherwise sealed under this subchapter for the following purposes:

- (A) A criminal proceeding for any purpose not otherwise prohibited by law;
- (B) Determination of offender status under the former § 5-64-413;
- (C) Habitual offender status, § 5-4-501 et seq.;
- (D) Impeachment upon cross-examination as dictated by the Arkansas Rules of Evidence;
- (E) Healthcare professional licensure by a state agency or board; ~~or~~
- (F) Any disclosure mandated by Rule 17, 18, or 19 of the Arkansas Rules of Criminal Procedure; or
- (G) Determination of certification, eligibility for certification, or of the ability to act as a law enforcement officer, by the Arkansas Commission on Law Enforcement Standards and Training.