

2017 Regular Session

HOUSE BILL NO. 481

BY REPRESENTATIVES JACKSON, BAGNERIS, GARY CARTER, GAINES, JIMMY HARRIS, JAMES, MARINO, AND ZERINGUE AND SENATOR BARROW

Prefiled pursuant to Article III, Section 2(A)(4)(b)(i) of the Constitution of Louisiana.

LAW ENFORCE/OFFICERS: Provides relative to law enforcement officers

1 AN ACT

2 To amend and reenact R.S.15:1212(B)(introductory paragraph), (1), and (4) and 1212.1(B),

3 R.S. 40:2402(3)(a), (c), and (d) and 2405(A)(1) and (2), and R.S.

4 44:3(A)(introductory paragraph) and 4.1(B)(8), to enact R.S. 15:1212.1(C), (D), (E),

5 and (F) and R.S. 44:4(54), and to repeal R.S. 40:2405(E)(2), relative to law

6 enforcement; to provide relative to the Louisiana Uniform Law Enforcement

7 Statewide Reporting Database; to provide relative to the information reported to and

8 contained in the database; to provide relative to the use of information in the

9 database; to provide for certain information that is exempt from disclosure; to

10 provide relative to the definition of a peace officer; to provide relative to the time

11 periods within which peace officers are required to obtain training and certification;

12 to provide relative to the Public Records Law; to provide for an emergency effective

13 date; and to provide for related matters.

14 Be it enacted by the Legislature of Louisiana:

15 Section 1. R.S.15:1212(B)(introductory paragraph), (1), and (4) and 1212.1(B) are

16 hereby amended and reenacted and R.S. 15:1212.1(C), (D), (E), and (F) are hereby enacted

17 to read as follows:

18 §1212. Creation of database; functions

19 * * *

1 B. ~~Upon the request of the commission,~~ All law enforcement agencies
2 shall provide any other such assistance, information, and data which are reasonable
3 and available to enable the commission to properly carry out its powers and duties.

4 C. A law enforcement agency shall obtain and certify to the commission that
5 it has received the required information as provided in R.S. 15:1212(B)(4) from the
6 database before hiring a law enforcement officer.

7 D. Except in cases of willful or wanton misconduct or gross negligence, the
8 commission, Council on Peace Officer Standards and Training, or a law enforcement
9 agency, correctional agency, or institution shall not be civilly or criminally liable for
10 the release or reporting of information provided in R.S. 15:1212(B)(4) when released
11 or reported pursuant to the provisions of this Section.

12 E. The personal information of a peace officer including the peace officer's
13 home address, home telephone number, birth date, Social Security number, driver's
14 license number, and username for P.O.S.T. electronic data/training systems
15 contained in the database central depository shall be confidential and shall not be
16 subject to disclosure by the commission or Council on Peace Officer Standards and
17 Training pursuant to the Public Records Law but may be disclosed to a requesting
18 law enforcement agency in this or another state, accredited training academies of the
19 Council on Peace Officer Standards and Training, and to councils on peace officer
20 standards and training in other states.

21 F. The information received by the commission as provided in R.S.
22 15:1212(B)(4), other than certification and training records of a law enforcement
23 officer, shall be used for hiring or revocation purposes only and shall not be
24 disclosed to any persons other than a qualifying law enforcement agency.

25 * * *

26 Section 2. R.S. 40:2402(3)(a), (c), and (d) and 2405(A)(1) and (2) are hereby
27 amended and reenacted to read as follows:

1 §2402. Definitions

2 As used in this Chapter:

3 * * *

4 (3)(a) "Peace officer" means any ~~full-time~~ employee of the state, a
5 municipality, a sheriff, or other public agency, whose permanent duties actually
6 include the making of arrests, the performing of searches and seizures, or the
7 execution of criminal warrants, and is responsible for the prevention or detection of
8 crime or for the enforcement of the penal, traffic, or highway laws of this state, but
9 not including any elected or appointed head of a law enforcement department.

10 * * *

11 (c) "Peace officer" shall also include ~~full-time~~ military police officers within
12 the Military Department, ~~State~~ state of Louisiana.

13 (d) "Peace officer" shall also include ~~full-time~~ security personnel employed
14 by the Supreme Court of the state of Louisiana.

15 * * *

16 §2405. Peace officer training requirements; reimbursement by peace officer

17 A.(1) ~~Notwithstanding any other provision of law to the contrary~~ Except as
18 otherwise provided in Paragraph (2) of this Subsection, any person who begins
19 employment as a peace officer in Louisiana subsequent to January 1, 1986, must
20 successfully complete a certified training program approved by the council and
21 successfully pass a council-approved comprehensive examination within one
22 calendar year from the date of initial employment. The one-year period in which a
23 peace officer is required to complete a certified training program approved by the
24 council and successfully pass a council-approved comprehensive examination is not
25 interrupted if the peace officer leaves the employing agency to be employed as a
26 peace officer in another agency in Louisiana. Any person who fails to comply with
27 this requirement shall be prohibited from exercising the authority of a peace officer;
28 however, such persons shall not be prohibited from performing administrative duties.

1 (2) ~~In addition, any person employed or commissioned as a peace officer,~~
2 ~~reserve peace officer, or part-time peace officer prior to July 1, 1998, including those~~
3 ~~persons employed as such prior to January 1, 1986, who has not satisfactorily~~
4 ~~completed a basic firearms training program, shall do so no later than August 1,~~
5 ~~1999. All other such persons who begin employment subsequent to July 1, 1998,~~
6 ~~shall satisfactorily complete a basic firearms training program prescribed by the~~
7 ~~council within one calendar year from the date of initial employment. Any person~~
8 ~~who does not comply with the provisions of this Paragraph shall be prohibited from~~
9 ~~exercising the authority of a peace officer, reserve peace officer, or part-time peace~~
10 ~~officer; however, such persons shall not be prohibited from performing~~
11 ~~administrative duties.~~

12 (a) The council shall promulgate administrative rules for the certification
13 requirements of part-time and reserve peace officers employed on or after the
14 effective date of this Act and prior to January 1, 2022, subject to oversight by the
15 House Committee on Judiciary and Senate Committee on Judiciary B.

16 (b) Any person who begins employment as a part-time or reserve peace
17 officer in Louisiana on or after January 1, 2022, shall be subject to the requirements
18 of Paragraph (1) of this Subsection.

19 * * *

20 Section 3. R.S. 44:3(A)(introductory paragraph) and 4.1(B)(8) are hereby amended
21 and reenacted and R.S. 44:4(54) is hereby enacted to read as follows:

22 §3. Records of prosecutive, investigative, and law enforcement agencies and
23 communications districts

24 A. Nothing in this Chapter shall be construed to require disclosures of
25 records, or the information contained therein, held by the offices of the attorney
26 general, district attorneys, sheriffs, police departments, Department of Public Safety
27 and Corrections, marshals, investigators, public health investigators, correctional
28 agencies, communications districts, intelligence agencies, Council on Peace Officer
29 Standards and Training, Louisiana Commission on Law Enforcement and

1 Administration of Criminal Justice, or publicly owned water districts of the state,
2 which records are:

3 * * *

4 §4. Applicability

5 This Chapter shall not apply:

6 * * *

7 (54) To the personal information of a peace officer as provided in R.S.
8 15:1212.1(E) in the custody of the Council on Peace Officer Standards and Training
9 or the Louisiana Commission on Law Enforcement and the Administration of
10 Criminal Justice.

11 §4.1. Exceptions

12 * * *

13 B. The legislature further recognizes that there exist exceptions, exemptions,
14 and limitations to the laws pertaining to public records throughout the revised
15 statutes and codes of this state. Therefore, the following exceptions, exemptions, and
16 limitations are hereby continued in effect by incorporation into this Chapter by
17 citation:

18 * * *

19 (8) R.S. 15:242, 440.6, 477.2, 549, 570(F), 574.12, 578.1, 616, 660, 840.1,
20 1176, 1204.1, 1212.1(E), 1507, 1614

21 * * *

22 Section 4. R.S. 40:2405(E)(2) is hereby repealed in its entirety.

23 Section 5. This Act shall become effective upon signature by the governor or, if not
24 signed by the governor, upon expiration of the time for bills to become law without signature
25 by the governor, as provided by Article III, Section 18 of the Constitution of Louisiana. If
26 vetoed by the governor and subsequently approved by the legislature, this Act shall become
27 effective on the day following such approval.

CODING: Words in ~~struck through~~ type are deletions from existing law; words underscored are additions.

DIGEST

The digest printed below was prepared by House Legislative Services. It constitutes no part of the legislative instrument. The keyword, one-liner, abstract, and digest do not constitute part of the law or proof or indicia of legislative intent. [R.S. 1:13(B) and 24:177(E)]

HB 481 Reengrossed

2017 Regular Session

Jackson

Abstract: Provides for a law enforcement officer database and provides for training requirements.

Present law creates the "Louisiana Uniform Law Enforcement Statewide Reporting Database" (database) to be administered by the La. Commission on Law Enforcement and the Administration of Criminal Justice (commission) and authorizes the commission to appoint employees, agents, consultants, or special committees to manage the database.

Present law requires that the commission be the central depository for all information submitted for the database, and provides for the procedures, powers, and duties of the commission for the creation, operation, maintenance, and use of or access to the database.

Present law requires the commission to prepare and distribute forms to all law enforcement agencies for reporting information regarding the name, position, certifications related to training and qualifications, and hire and separation from service dates for all law enforcement officers.

Proposed law retains present law and requires all law enforcement agencies and the Council on Peace Officer Standards and Training (council) to provide the following additional information for inclusion in the database: all P.O.S.T. certifications and decertifications, the final disposition of disciplinary actions that result in involuntary termination, resignations in lieu of termination, and resignations pending an investigation, and final judgments in civil cases related to civil rights violations under the provisions federal law relative to civil rights violations (42 U.S.C. 1983) or related to serious bodily injury as defined in present law (R.S. 14:34.1(B)(3)) or criminal cases related to the duties of a law enforcement officer when the misconduct of that specific law enforcement officer gave rise to the cause of action.

Proposed law requires that the database be electronically accessible to qualified law enforcement agencies.

Proposed law requires all law enforcement agencies to obtain and certify to the commission that it has received the information reported to the database under present law and proposed law prior to hiring a law enforcement officer.

Proposed law limits the liability of the commission, council, a law enforcement agency, correctional agency, or institution for the release or reporting of information required by proposed law.

Proposed law provides that the information in the database is confidential and not subject to disclosure pursuant to a public records request.

Present law defines "peace officer" as any full-time employee of the state, a municipality, a sheriff, or other public agency, whose permanent duties actually include the making of arrests, the performing of searches and seizures, or the execution of criminal warrants, and is responsible for the prevention or detection of crime or for the enforcement of the penal, traffic, or highway laws of this state, but not including any elected or appointed head of a law enforcement department. Present law also defines "peace officer" as a sheriff's deputy whose duties include the care, custody, and control of inmates and a full-time military police

officer with the Military Dept. or full-time security personnel employed by the La. Supreme Court.

Proposed law retains present law but removes the requirement that a "peace officer" be a full-time employee.

Present law establishes the Council on Peace Officer Standards and Training and authorizes the council to develop curriculum requirements for training of peace officers and accredit law enforcement training centers. Present law further provides for the training requirements for peace officers.

Present law requires all peace officers to be certified by the council by completing a certified training program prescribed by the council and to successfully pass a council approved comprehensive examination within one calendar year from the date of initial employment. Provides exceptions.

Proposed law provides that the one-year period is not interrupted if the peace officer leaves the employing agency to be employed as a peace officer in another agency.

Proposed law retains present law but makes it applicable to part-time and reserve peace officers.

Proposed law retains present law and requires part-time or reserve peace officers hired after Jan. 1, 2022, to successfully complete a certified training program approved by the council and successfully pass a council-approved comprehensive examination within one calendar year from initial date of employment.

Proposed law requires the council to promulgate rules for the certification requirements of part-time and reserve peace officers employed prior to Jan. 1, 2022.

Effective upon signature of governor or lapse of time for gubernatorial action.

(Amends R.S.15:1212(B)(intro. para.), (1), and (4) and 1212.1(B), R.S. 40:2402(3)(a), (c), and (d) and 2405(A)(1) and (2), and R.S. 44:3(A)(intro. para.) and 4.1(B)(8); Adds R.S. 15:1212.1(C), (D), (E), and (F), and R.S. 44:4(54); Repeals R.S. 40:2405(E)(2))

Summary of Amendments Adopted by House

The Committee Amendments Proposed by House Committee on Judiciary to the original bill:

1. Remove the requirement that the final disposition of formal investigations related to law enforcement misconduct be submitted to the database by law enforcement agencies.
2. Add the requirement that final judgements in civil or criminal cases related to the duties of a law enforcement officer when the misconduct of that specific law enforcement officer gave rise to the cause of action be submitted to the database by law enforcement agencies.
3. Make technical amendments.

The Committee Amendments Proposed by House Committee on House and Governmental Affairs to the engrossed bill:

1. Limit the civil cases required to be reported to cases related to civil rights violations or serious bodily injury.

2. Clarify that the personal information of a peace officer in the database may be disclosed to requesting law enforcement agencies, accredited training academies, and councils on peace officer standards and training in other states and remove conflicting language allowing the general disclosure of information by the council, its accredited training academies, law enforcement agencies, and councils on peace officer standards and training in other states.
3. Clarify the certification requirements applicable to part-time and reserve peace officers employed before Jan. 1, 2022, are those promulgated by the council, and the certification requirements applicable to part-time and reserve peace officers employed on and after Jan. 1, 2022, are the same as those applicable to full-time peace officers.