

2017 Regular Session

HOUSE BILL NO. 481

BY REPRESENTATIVES JACKSON, GAINES, AND JAMES 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. The commission shall be the central depository for all information
2 submitted for entry into the database by law enforcement agencies, correctional
3 agencies, and institutions and shall have the following functions, powers, and duties:

4 (1) To establish, through electronic data processing and related procedures,
5 a database by which relevant information can be collected, coordinated, analyzed,
6 and made readily available to serve and be electronically accessible to qualified law
7 enforcement agencies concerned with the hiring practices, P.O.S.T. certifications,
8 disciplinary actions, resignations, terminations, and training of law enforcement
9 officers located anywhere in the state. The ~~commission~~ Council on Peace Officer
10 Standards and Training shall prescribe the terms and conditions under which such
11 agencies shall contribute or gain access to information contained in the database
12 files.

13 * * *

14 (4) To prepare and distribute, to all such persons and agencies, forms to be
15 used in reporting data to the database. The forms shall provide for detailed
16 information regarding the name of the law enforcement officer, the designated
17 position, the status of all P.O.S.T. certifications and decertifications related to
18 training and qualifications, the hire date, the final disposition of disciplinary actions
19 that result in involuntary termination, the final disposition of formal investigations
20 related to law enforcement misconduct, resignations in lieu of termination,
21 resignations pending an investigation, and the date of separation from service.

22 * * *

23 §1212.1. Report to the system; duties of persons and agencies

24 * * *

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

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

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

9 E. The personal information of a peace officer including the peace officer's
10 home address, home telephone number, birth date, Social Security number, driver's
11 license number, and username for P.O.S.T. electronic data/training systems
12 contained in the database central depository shall be confidential and shall not be
13 subject to disclosure by the commission or Council on Peace Officer Standards and
14 Training pursuant to the Public Records Law.

15 F. The information received by the commission as provided in R.S.
16 15:1212(B)(4), other than certification and training records of a law enforcement
17 officer, shall be used for hiring or revocation purposes only and shall not be
18 disclosed to any persons other than a qualifying law enforcement agency. The
19 provisions of Subsection E of this Section shall in no way restrict the disclosure of
20 any information in the database requested by any law enforcement agency, nor shall
21 it restrict the disclosure of information by the Council on Peace Officer Standards
22 and Training, its accredited training academies, and other law enforcement agencies
23 including councils on peace officer standards and training in other states.

24 * * *

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

27 §2402. Definitions

28 As used in this Chapter:

29 * * *

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

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

7 * * *

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

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

12 * * *

13 §2405. Peace officer training requirements; reimbursement by peace officer

14 A.(1) Notwithstanding any other provision of law to the contrary, any person
15 who begins employment as a peace officer in Louisiana subsequent to January 1,
16 1986, must successfully complete a certified training program approved by the
17 council and successfully pass a council-approved comprehensive examination within
18 one calendar year from the date of initial employment. The one year period in which
19 a peace officer is required to complete a certified training program approved by the
20 council and successfully pass a council-approved comprehensive examination is not
21 interrupted if the peace officer leaves the employing agency to be employed as a
22 peace officer in another agency in Louisiana. Any person who fails to comply with
23 this requirement shall be prohibited from exercising the authority of a peace officer;
24 however, such persons shall not be prohibited from performing administrative duties.

25 (2) ~~In addition, any person employed or commissioned as a peace officer,~~
26 ~~reserve peace officer, or part-time peace officer prior to July 1, 1998, including those~~
27 ~~persons employed as such prior to January 1, 1986, who has not satisfactorily~~
28 ~~completed a basic firearms training program, shall do so no later than August 1,~~
29 ~~1999. All other such persons who begin employment subsequent to July 1, 1998,~~

1 ~~shall satisfactorily complete a basic firearms training program prescribed by the~~
2 ~~council within one calendar year from the date of initial employment. Any person~~
3 ~~who does not comply with the provisions of this Paragraph shall be prohibited from~~
4 ~~exercising the authority of a peace officer, reserve peace officer, or part-time peace~~
5 ~~officer; however, such persons shall not be prohibited from performing~~
6 ~~administrative duties. Notwithstanding any other provision of law to the contrary,~~
7 ~~any person who begins employment as a part-time or reserve peace officer in~~
8 ~~Louisiana subsequent to January 1, 2022, must successfully complete a certified~~
9 ~~training program approved by the council and successfully pass a council-approved~~
10 ~~comprehensive examination within one calendar year from the date of initial~~
11 ~~employment. Any person who fails to comply with this requirement shall be~~
12 ~~prohibited from exercising the authority of a peace officer; however, such persons~~
13 ~~shall not be prohibited from performing administrative duties. The council shall~~
14 ~~promulgate administrative rules for the certification requirements of part-time and~~
15 ~~reserve peace officers employed prior to January 1, 2022, subject to oversight by the~~
16 ~~House Committee on Judiciary and Senate Committee on Judiciary B.~~

17 * * *

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

20 §3. Records of prosecutive, investigative, and law enforcement agencies and
21 communications districts

22 A. Nothing in this Chapter shall be construed to require disclosures of
23 records, or the information contained therein, held by the offices of the attorney
24 general, district attorneys, sheriffs, police departments, Department of Public Safety
25 and Corrections, marshals, investigators, public health investigators, correctional
26 agencies, communications districts, intelligence agencies, Council on Peace Officer
27 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, 1507, 1614, 1212.1(E)

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.

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 Original

2017 Regular Session

Jackson

Abstract: Provides relative to law enforcement officers.

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 report to the database for submission all P.O.S.T. certifications and decertifications, the final disposition of disciplinary actions that result in involuntary termination, the final disposition of formal investigations related to law enforcement misconduct, resignations in lieu of termination, and resignations pending an investigation.

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 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 also exempts records held by the database including personal information of the law enforcement officer or pertaining to an ongoing investigation from disclosure by 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.

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.

Present law requires peace officers hired after Jan. 1, 1986, in a village with a population of less than 1,000, to be P.O.S.T. certified within two calendar years and exempts part-time and reserve peace officers from this requirement.

Proposed law retains present law but removes the part-time and reserve peace officer training exemption.

Present law further provides that any person who fails to comply with training requirements shall not be prohibited from performing administrative duties.

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))