



House Judiciary Reported Substitute for HB100

A BILL

TO BE ENTITLED

AN ACT

Relating to the Alabama Justice Information Commission;
to amend Sections 41-9-590, 41-9-594, 41-9-625, and 41-9-650,
Code of Alabama 1975, to mandate the collection and
dissemination of biometric identifiers by certain entities; to
authorize the use of certain approved biometric identification
devices by law enforcement officers to identify individuals;
to establish and provide for the operation of the Alabama
Background Check Service; to add Sections 41-9-650.1,
41-9-650.2, 41-9-650.3, 41-9-650.4, and 41-9-650.5 to the Code
of Alabama 1975, to authorize the Alabama State Law
Enforcement Agency (ALEA) to perform authorized background
checks for noncriminal justice purposes; to provide for
approved types and uses of background checks for noncriminal
justice purposes; to authorize the Secretary of ALEA to
establish and collect fees for background checks for
noncriminal justice purposes; to establish the Alabama Rap
Back Program; to provide penalties for the misuse of a
background check report; to make conforming changes to update
terminology; to make nonsubstantive, technical revisions to
update the existing code language to current style; and to



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repeal Article 4 of Chapter 2 of Title 32, Code of Alabama 1975, regarding the dissemination of criminal history information.

BE IT ENACTED BY THE LEGISLATURE OF ALABAMA:

Section 1. Sections 41-9-590, 41-9-594, 41-9-625, and 41-9-650, Code of Alabama 1975, are amended to read as follows:

"§41-9-590

When used in this article, the following terms ~~shall~~ have the following meanings, ~~respectively~~, unless the context clearly indicates a different meaning:

(1) AJIC or COMMISSION. The Alabama Justice Information Commission.

(2) ALEA. The Alabama State Law Enforcement Agency.

(3) ALEA CJIS. The Criminal Justice Information Services Division of ALEA.

(4) BACKGROUND CHECK. A report produced by one or more information systems within ALEA that identifies a specific individual's criminal history record within the state criminal history repository. The report may also include criminal history record information from the national criminal history repository maintained by the FBI or other public safety-related information maintained or accessed through the authority of ALEA.

(5) CRIMINAL HISTORY RECORD INFORMATION. Information collected by criminal justice agencies on individuals consisting of identifiable descriptions, including fingerprints and other biometric information, and notations of

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arrests, detentions, indictments, or other formal charges, and
any disposition arising therefrom, including acquittal,
sentencing, correctional induction, supervision, or release.
The term does not include identification information such as
fingerprint records if the information does not indicate the
individual's involvement with the criminal justice system.

~~(3)~~ (6) CRIMINAL JUSTICE AGENCIES. Federal, state,
local, and tribal public agencies that perform substantial
activities or planning for activities relating to the
identification, apprehension, prosecution, adjudication, or
rehabilitation of civil, traffic, and criminal offenders.

~~(4)~~ (7) CRIMINAL JUSTICE INFORMATION. ~~Data necessary for~~
~~criminal justice~~ Information based upon data under the
authority of ALEA or AJIC necessary for criminal justice and
public safety agencies to perform their ~~duties and enforce~~
~~existing law~~ missions. This term includes, but is not limited
to, biometrics, business, biometric, identity history, person,
organization, and property, when accompanied by any personally
identifiable information, bond conditions and provisions, an
individual's identity history data, biographic information,
~~case/incident~~ case or incident history reports ~~data~~, and any
other data deemed criminal justice information by the FBI CJIS
Security Policy. ~~The term also includes ALEA-provided or FBI~~
~~CJIS-provided data necessary to make hiring decisions.~~ In
addition, the term may refer to the ALEA CJIS-provided or FBI
CJIS-provided data necessary for civil agencies to perform
their missions, including, but not limited to, data used to
make hiring decisions.

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~~(5) (8) CRIMINAL JUSTICE INFORMATION SERVICES DIVISION~~
~~or FBI CJIS. The division of the Federal Bureau of~~
~~Investigation that equips law enforcement, national security,~~
~~and intelligence community partners with needed criminal~~
~~justice information.~~ The Criminal Justice Information Services
Division of the FBI that is responsible for the collection,
warehousing, and timely dissemination of relevant criminal
justice information to the FBI and to qualified law
enforcement, criminal justice, civilian, academic, employment,
and licensing agencies.

(9) FBI. The Federal Bureau of Investigation.

(10) IDENTITY HISTORY DATA. Textual data that
corresponds with an individual's biometric data, providing a
history of criminal and civil events for the identified
individual.

~~(6) (11) INFORMATION SYSTEM. A system of people, data,~~
~~and processes, whether manual or automated, established for~~
~~the purpose of managing information.~~

~~(7) (12) NLETS. Network provider~~ The national
organization that provides for the exchange of criminal
justice and public safety information ~~among multiple between~~
state, federal, and international criminal justice and public
safety agencies.

~~(8) (13) NLETS SYSTEM AGENCY or NSA. The~~ state agency
responsible for the administration of ~~the NLETS network~~
information provided by NLETS to criminal justice and public
safety agencies within this state and who provides a
representative from the state for the governance of NLETS.

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(14) NONCRIMINAL JUSTICE PURPOSE. The uses of criminal history records for purposes authorized by federal or state law other than purposes relating to the administration of criminal justice, including employment suitability, licensing determinations, immigration and naturalization matters, and national security clearances.

~~(9)~~ (15) OFFENSE. Any act that is a felony, misdemeanor, state violation, municipal ordinance violation, or violation, or an act of delinquency.

(16) RAP BACK. A system that enables authorized entities to receive ongoing status notifications of any criminal history reported by ALEA or the FBI on individuals whose fingerprints are registered in the ALEA CJIS biometric identity repository or the FBI CJIS national fingerprint file.

~~(10)~~ (17) SECRETARY. The Secretary of the Alabama State Law Enforcement Agency.

~~(11) SBI. The State Bureau of Investigation.~~

~~(12)~~ (18) USER AGENCY. Any agency or entity that subscribes to, accesses, or views any ALEA information system or service provided under the authority of this article."

"§41-9-594

(a) The commission shall ~~establish its own~~ adopt rules and policies for the performance of the responsibilities ~~charged to it in~~ under this article. Unless otherwise stated, the rules of the commission are subject to the Administrative Procedure Act, Chapter 22 of Title 41. ALEA may establish procedures to implement the rules and policies of the commission or as otherwise stated in state law.

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(b) The commission shall ~~establish~~adopt rules and policies that will restrict the information obtained under authority of this article to the items germane to the implementation of this article and restrict the use of information only to authorized persons and agencies.

(c) The chair of the commission shall appoint a Privacy and Security Committee from the membership of the commission who are elected officials, or their designees, consisting of a chair and three members, to study the privacy and security implications of sharing criminal justice information and to formulate rule or policy recommendations for consideration by the commission concerning the collection, storage, dissemination, or usage of criminal justice information.

(d) The commission may adopt rules and policies regarding the collection, storage, and dissemination of criminal justice information that conform to the policies of the FBI CJIS. ~~The commission may adopt rules and policies that permit ALEA to perform background checks for noncriminal justice purposes and may provide for the procedure for obtaining the records including, but not limited to, charging a fee not to exceed twenty-five dollars (\$25) for securing records through ALEA. All fees shall be deposited into the State Treasury to the credit of the Public Safety Fund and shall be used to cover the expenses for improving criminal history records and the state repository at ALEA.~~

~~(e) Any rule or policy of the commission to the contrary notwithstanding, the police department of any college or university in this state which offers medical, nursing, and~~

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~~health care education, or which operates a hospital may request from ALEA a criminal background check on any person who applies for employment with the college or university, and ALEA may charge a background search fee of up to twenty-five dollars (\$25) from each applicant for each search conducted on the applicant. All fee proceeds from the background check fee shall be deposited in the State Treasury to the credit of the Public Safety Fund and shall be used to cover expenses for improving criminal history records and the state repository at ALEA.~~

(e) The commission may direct ALEA CJIS to establish procedures, manuals, documents, forms or requirements; perform tasks to facilitate federal and state law; and perform tasks to facilitate rules or policies established by the commission. These directives and ALEA CJIS's subsequent response are not subject to APA approval, but must be approved by the commission.

(f) ~~The~~ Unless otherwise provided by law, the commission may establish a fee schedule for any services rendered by ALEA under the authority of this article. All fees shall be deposited into the State Treasury to the credit of the Public Safety Fund and shall be used to support, develop, maintain, and promote operations as authorized in this article."

"§41-9-625

~~(a) All persons in this state in charge of law enforcement and correctional agencies shall obtain biometric identifiers, which may include fingerprints, photographs, palm~~

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~~prints, retina scans, or other identifiers specified by the FBI, according to the biometric identification system at ALEA and the rules established by the commission of all persons arrested or taken into custody as fugitives from justice, and of all unidentified human corpses in their jurisdictions. All biometric identifiers collected according to this section shall be provided to ALEA according to the rules of the commission.~~

~~(b) If any person arrested or taken into custody is subsequently released without charge or cleared of the offense through criminal justice proceedings, the disposition shall be reported by all state, county, and municipal criminal justice agencies to ALEA within 30 days of such action, and all of the information shall be eliminated and removed.~~

(a) When an individual is arrested for an offense, the arresting agency shall obtain biometric identifiers, which may include fingerprints, photographs, palm prints, iris scans, or other identifiers specified by rule of AJIC, and provide this information to ALEA according to the procedures established by ALEA CJIS for inclusion in the state biometric identification repository.

(b) When an individual is detained or taken into custody as a fugitive from justice, the agency with custody over the individual may obtain biometric identifiers, which may include fingerprints, photographs, palm prints, iris scans, or other identifiers specified by AJIC rule and provide the information according to the procedures established by ALEA CJIS. If the individual is subsequently released without

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charge, released to the jurisdiction of the underlying arrest, or otherwise cleared of the charged offense through criminal justice proceedings, the involved agency shall notify ALEA CJIS of the disposition within 30 days. Upon receiving notification, ALEA shall remove all information regarding the detainment or custodial event from all ALEA CJIS information systems.

(c) All agencies that recover an unidentified human corpse shall obtain biometric identifiers and provide this information and other recovery event-related information to ALEA according to the rules established by the commission and procedures established by ALEA CJIS for inclusion in the state biometric identification repository.

(d) A law enforcement officer may use a biometric identification device with access to the state and federal biometric identification repositories to identify an individual to the extent allowed by state law in situations that provide the officer authority to request or otherwise take action to identify an individual. The device must meet FBI or AJIC standards to compare the captured identifier to the state or federal biometric identification repositories. The commission shall establish rules for the use of these devices and the resulting information returned from the use."

"§41-9-650

~~In addition to any other requirements, any agency, board, or commission in this state that issues a permit or license, by rule, may require a criminal background check through ALEA as part of its licensing or permitting~~

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~~requirements. Any agency, board, or commission adopting a rule requiring a background check shall be subject to rules and procedures of the commission for the use of the background check.~~

(a) ALEA shall establish and operate a service, to be called the Alabama Background Check Service, that allows authorized persons and entities to obtain background checks on individuals for noncriminal justice purposes.

(b) (1) AJIC shall adopt rules for the operation and use of the Alabama Background Check Service.

(2) ALEA CJIS shall establish procedures that are consistent with the commission's rules.

(c) ALEA may contract with one or more vendors or other third-party entities to facilitate any or all functions of the service on behalf of ALEA."

Section 2. Sections 41-9-650.1, 41-9-650.2, 41-9-650.3, 41-9-650.4, and 41-9-650.5 are added to the Code of Alabama 1975, to read as follows:

§41-9-650.1

(a) For the noncriminal justice purposes specified herein, ALEA may provide a background check to any of the following persons or entities:

(1) Any public or private employer to screen a prospective employee or contractor or for other employment purposes.

(2) Any government agency, board, or commission with legal authority to issue a license, permit, or certification to screen an applicant for the issuance or renewal of the

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license, permit, or certification.

(3) Any nonprofit or volunteer organization to screen a prospective or current volunteer of the organization.

(4) Any housing authority or lessor of rental property to screen a prospective or current resident.

(5) Any educational entity to screen student applicants, prospective or current volunteers involved with entity-related activities, or other individuals directly related to the operations or events of the entity and subject to the entity's authority.

(6) Any agency or organization established by federal or state law for an official purpose of the agency or organization.

(7) Any person or entity authorized by the rules of the commission to obtain a background check for noncriminal justice purposes.

(b) Except as otherwise provided by law, an individual who is the subject of a background check for noncriminal justice purposes shall provide express permission for the release of information to the authorized person or entity requesting the check prior to ALEA's dissemination of background check information. The subject's express permission shall be maintained, physically or digitally, by the requesting person or entity for a period of three years or for the term of the subject's association with the requester, whichever is longer.

(c) A background check may not be provided on any individual under 18 years of age without parental consent.

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(d) Any person or entity that is authorized by state law to perform a background check or allowed by law to adopt rules requiring a background check is subject to the AJIC rules and ALEA procedures described in Section 41-9-650.

(e) The commission may require a person or entity to develop background check guidelines for the commission's review and approval prior to allowing the release of background check information to that person or entity.

(f) Background check information may only be disseminated for the specific purposes listed in this section. No person or entity that has received background check information from ALEA shall subsequently disseminate the background check information to any other person or entity.

(g) Any recipient of a background check record may be subject to an audit by ALEA CJIS.

§41-9-650.2

(a) The Alabama Background Check Service may be provided through a biometric-based or a name-based search for a background check record.

(b) A name-based search shall be initiated by submitting an individual's name to ALEA through an Internet web portal or other commission-approved mechanism, which shall allow for the electronic transfer of records and shall only return state information results.

(c) The response to a biometric-based search shall only be provided upon the receipt of biometric information by ALEA or a commission-approved third-party entity acting on behalf of ALEA that meets all FBI standards for biometric

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identification collection. This search shall provide state information results, as well as other state and federal information as allowed by law.

(d) An applicant for a license, permit, or certification shall provide the issuing government agency, board, or commission with his or her name, date of birth, Social Security number, and express permission for the release of information on a form sworn by the applicant. This information shall be digitally provided to ALEA. If a biometric-based check is requested, the applicant shall submit fingerprints or other biometrics in accordance with AJIC rules and ALEA CJIS procedures. If a national record check is required, ALEA shall forward or process the applicant's prints or other biometrics to the FBI for a national criminal background check in a manner consistent with federal law.

§41-9-650.3

(a) The secretary may establish reasonable record fees for the provision of a background check report, not to exceed thirty dollars (\$30). The record fee may be waived at the discretion of the secretary.

(b) Additional costs may be assessed to a person or entity requesting a background check for any of the following:

(1) The cost for a national criminal background check, as determined by the FBI.

(2) Financial transaction fees.

(3) A reasonable one-time account registration fee.

(c) ALEA may enter into an agreement with one or more vendors or other third-party entities to perform background

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check services for ALEA on the basis of fee sharing or by adding an additional convenience fee for third-party services.

(d) Requests for background checks made by the Alabama Peace Officers' Standards and Training Commission or by any criminal justice agency are exempt from fees established pursuant to this section if the request is made for criminal justice purposes or for the purpose of making an employment suitability decision.

(e) All monies received for background checks shall be deposited in the State Treasury to the credit of the Public Safety Fund. The monies shall be used for the purposes of ALEA CJIS and for other ALEA expenses as determined by the secretary.

§41-9-650.4

(a) As part of the Alabama Background Check Service, ALEA may establish the Alabama Rap Back Program. If established, ALEA shall participate in the FBI's Next Generation Identification (NGI) Rap Back Service. The purpose of the rap back service is to allow ALEA to notify participating entities when an enrolled individual is the subject of a rap back notification event, including, but not limited to, being arrested for or convicted of an offense.

(b) As used in this section, the following words have the following meanings:

(1) INDIVIDUAL. Any individual who has undergone a fingerprint-based background check in order to care for children, the disabled, or the elderly, or to be licensed, certified, or to perform volunteer service, or for any other

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FBI or federally authorized purpose with a participating entity and who has been enrolled by that participating entity in the Alabama Rap Back Program.

(2) PARTICIPATING ENTITY. An entity with statutory authority to require an individual to undergo a fingerprint-based background check as a condition to care for children, the disabled, or the elderly, or to be licensed, certified, or to perform volunteer service, or for any other FBI or federally authorized purpose and has elected to enroll those individuals in the Alabama Rap Back Program.

(c) ALEA may submit fingerprints and accompanying records to the FBI to be retained in and advised through the FBI's NGI Rap Back Service when an enrolled individual is arrested for or convicted of a criminal offense. Fingerprints submitted to the FBI may be used for future searches, including latent searches.

(d) ALEA shall ensure that notification is made to the participating entity that enrolls an individual in the Alabama Rap Back Program when an FBI Rap Back report notification is received. The information contained in the notification shall be used by the participating entity for purposes of determining the eligibility of the continued service of the individual and shall not be further disseminated.

(e) ALEA shall adopt rules governing the operation and maintenance of the Alabama Rap Back Program and the removal and destruction of records on individuals who are deceased or who are no longer individuals as defined in this section. Such rules shall provide that a participating entity shall

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disenroll any individual who is deceased or is no longer an individual as defined in this section within five business days of death or such event that no longer requires the individual to be enrolled in the Alabama Rap Back Program to ensure the prompt removal and destruction of records from the Alabama Rap Back Program.

(f) ALEA may assess an annual fee not to exceed twelve dollars (\$12) per individual enrolled in the Alabama Rap Back Program. The fee shall be paid by the participating entity enrolling an individual in the Alabama Rap Back Program. When more than one participating entity enrolls the same individual in the Alabama Rap Back Program, both participating entities shall be responsible for paying the full cost for maintenance and notification. Any fees collected shall be deposited in the State Treasury to the credit of the Public Safety Fund. Such monies shall be used for the purposes of ALEA CJIS and for other ALEA expenses as determined by the secretary.

(g) No participating entity authorized to submit fingerprints shall be considered negligent per se in a civil action solely because the entity elected not to enroll an individual in the Alabama Rap Back Program pursuant to this section.

(h) ALEA may establish an in-state rap back service for any person or entity that does not qualify to receive information from the FBI Rap Back Service but that has authority to require a state-only background check.

§41-9-650.5

(a) An individual commits the crime of misuse of a



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background check report if he or she does any of the following:

(1) Knowingly receives, disseminates, or otherwise uses a background check contrary to the purposes allowed by this article or otherwise allowed in law.

(2) Performs a background check on an individual without first receiving a release, when required, from the subject of the report.

(3) Willfully uses information submitted to the Alabama Rap Back Program for purposes not authorized in this article with the intent to harass or intimidate another individual.

(b) Misuse of a background check report is a Class B misdemeanor.

Section 3. Article 4 of Chapter 2 of Title 32, Code of Alabama 1975, relating to the release of criminal history information, is repealed.

Section 4. This act shall become effective on October 1, 2026.