

104TH CONGRESS
1ST SESSION

S. 484

To amend the Omnibus Crime Control and Safe Streets Act of 1968 to establish a national clearinghouse to assist in background checks of applicants for law enforcement positions, and for other purposes.

IN THE SENATE OF THE UNITED STATES

MARCH 2 (legislative day, FEBRUARY 22), 1995

Mr. GRAHAM introduced the following bill; which was read twice and referred to the Committee on the Judiciary

A BILL

To amend the Omnibus Crime Control and Safe Streets Act of 1968 to establish a national clearinghouse to assist in background checks of applicants for law enforcement positions, and for other purposes.

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*

3 **SECTION 1. SHORT TITLE.**

4 This Act may be cited as the “Law Enforcement and
5 Correctional Officers Employment Registration Act of
6 1995”.

7 **SEC. 2. FINDINGS.**

8 The Congress finds that—

1 (1) law enforcement officials, including mem-
2 bers of the International Association of Chiefs of Po-
3 lice, recognize that violent crime represents the
4 greatest threat to the safety and security of citizens
5 and that dedicated, ethical law enforcement profes-
6 sionals and lawful community initiatives with partici-
7 pation by members of the community represent the
8 best hope of responding to the challenges of violent
9 crime;

10 (2) the International Association of Chiefs of
11 Police acknowledges that a few officers choose to
12 violate the public trust by abusing their authority or
13 by breaking the law; such officers should not be able
14 to seek police employment in another State or juris-
15 diction with the expectation that they will be able to
16 conceal their history of misconduct;

17 (3) there have been numerous documented
18 cases of officers who have obtained officer employ-
19 ment and certification in a State after revocation of
20 officer certification or dishonorable discharge in an-
21 other State;

22 (4) a national clearinghouse of officer employ-
23 ment histories would enable each criminal justice
24 agency to conduct thorough background checks on

1 officer applicants and to ensure that only honest
2 ethical officers are permitted to serve; and

3 (5) Federal legislation is needed that would re-
4 quire Federal registration of employment termi-
5 nation data of law enforcement officers and correc-
6 tional officers.

7 **SEC. 3. REGISTRATION.**

8 Subpart 1 of part E of the Omnibus Crime Control
9 and Safe Streets Act of 1968 (42 U.S.C. 3751 et seq.)
10 is amended by adding at the end the following:

11 “REGISTRATION OF EMPLOYMENT DATA OF LAW
12 ENFORCEMENT AND CORRECTIONAL OFFICERS

13 “SEC. 509A. (a)(1)(A) The Governor of each State,
14 and the chief executive of each territory of the United
15 States, the District of Columbia, and each Native Amer-
16 ican Indian tribe or band that receives funds under section
17 506 shall ensure that the State peace officer standards
18 board of such jurisdiction, or its equivalent, shall prepare,
19 electronically maintain, and submit a list of all law en-
20 forcement and correctional officers employed on or after
21 January 1, 1995, in such State or territory, the District
22 of Columbia, or Native American Indian tribe or band to
23 the officer or agency designated by the Attorney General
24 of the United States pursuant to subsection (d).

25 “(B) The head of each department, agency, or other
26 entity in the executive branch of the United States Gov-

1 ernment that employs law enforcement or correctional offi-
2 cers shall prepare, electronically maintain, and submit a
3 list of all such officers employed on or after January 1,
4 1995, to the officer or agency designated by the Attorney
5 General of the United States pursuant to subsection (d).

6 “(2) Each list prepared pursuant to this subsection
7 shall be updated and supplemented by the agencies or offi-
8 cials responsible for the submission of the list, in accord-
9 ance with subsection (b), and shall include, for each officer
10 listed—

11 “(A) the name (and any former names) of the
12 officer;

13 “(B) the date of birth;

14 “(C) the social security number;

15 “(D) the Federal Bureau of Investigation fin-
16 gerprint identification number, if known;

17 “(E) the date of appointment as officer, if
18 known;

19 “(F) the name and address or National Crime
20 Information Center number of the appointing or em-
21 ploying agency; and

22 “(G) the date such service ended for such offi-
23 cer, if applicable.

24 “(b) Not later than 90 days after the date on which
25 an officer has been employed, appointed, or separated

1 from employment or appointment, the agency or official
2 responsible for the submission of the list under subsection
3 (a) shall so notify the officer or agency designated by the
4 Attorney General of the United States pursuant to sub-
5 section (d). Notice shall also be made if an officer has
6 had officer certification revoked for cause.

7 “(c)(1) As a condition of employment, each State,
8 territory, political subdivision of a State or territory, the
9 District of Columbia, Native American Indian tribe or
10 band, and Federal agency that employs law enforcement
11 officers or correctional officers shall require that each ap-
12 plicant for appointment or employment in such positions,
13 before beginning employment—

14 “(A) disclose all prior service or employment as
15 a law enforcement or correctional officer; and

16 “(B) submit a written authorization and re-
17 quest for release of information, on a form pre-
18 scribed by the Attorney General or a designee of the
19 Attorney General.

20 “(2) When a prospective law enforcement or correc-
21 tional employer obtains an officer’s required written au-
22 thorization and request for release of information, the offi-
23 cer or agency designated by the Attorney General pursu-
24 ant to subsection (d) shall release all data collected under
25 subsections (a) and (b) to such prospective employer.

1 “(3) Upon receipt of completed written authorization
2 and request for release of information, and not later than
3 30 days after such officer is first appointed or employed,
4 or at any time prior to the appointment or employment
5 of an applicant, each State, territory, political subdivision
6 of a State or territory, the District of Columbia, Native
7 American Indian tribe or band, and Federal agency that
8 employs law enforcement or correctional officers shall no-
9 tify the officer or agency designated by the Attorney Gen-
10 eral pursuant to subsection (d).

11 “(d) The Attorney General shall—

12 “(1) designate an officer or agency of the Fed-
13 eral Government to collect and disseminate informa-
14 tion in accordance with this section; and

15 “(2) issue regulations to carry out this section
16 and the operation of the employment data clearing-
17 house.

18 “(e) Agencies or agency administrators who submit
19 employment or officer certification data pursuant to this
20 section are presumed to be acting in good faith and, unless
21 lack of good faith is shown by clear and convincing evi-
22 dence, are immune from civil liability for such disclosure.
23 The presumption of good faith may be rebutted upon a
24 showing that the data was submitted with knowledge of

1 its falsity or was submitted with the malicious intent to
2 deliberately mislead.

3 “(f) For purposes of the section:

4 “(1)(A)(i) The term ‘law enforcement officer’
5 means a Federal law enforcement officer or an indi-
6 vidual who is elected or appointed by a State or ter-
7 ritory, a political subdivision of a State or territory,
8 the District of Columbia, or a Native American In-
9 dian tribe or band, to preserve the peace, make ar-
10 rests, serve warrants, or otherwise possess or exer-
11 cise the authority of a peace officer.

12 “(ii) In the case of a law enforcement officer
13 elected or appointed by a State or a political subdivi-
14 sion of a State, the term ‘law enforcement officer’
15 shall only include law enforcement officers required
16 by the law of the State to be licensed or certified.

17 “(B)(i) The term ‘correctional officer’ means a
18 Federal correctional officer, or an individual who is
19 elected or appointed by a State or territory, a politi-
20 cal subdivision of a State or territory, the District
21 of Columbia, or a Native American Indian tribe or
22 band to guard or supervise prisoners or inmates of
23 a jail or other detention, penal, or correctional facil-
24 ity.

1 “(ii) In the case of a correctional officer elected
2 or appointed by a State or a political subdivision of
3 a State, the term ‘correctional officer’ shall only in-
4 clude correctional officers required by the law of the
5 State to be licensed or certified.

6 “(C)(i) The terms ‘law enforcement officer’ and
7 ‘correctional officer’ shall include an individual re-
8 gardless of whether such individual is compensated
9 for services, serves on a full- or part-time basis, is
10 appointed or elected, or serves on a temporary or
11 permanent basis.

12 “(ii) Such terms do not include citizens who are
13 called to assist an officer in the performance of the
14 officer’s duties, unless such citizen received a depu-
15 tation or commission of appointment lasting not less
16 than 30 days.

17 “(2) The term ‘certification revoked for cause’
18 means the cancellation or revocation of an individ-
19 ual’s law enforcement officer or correctional officer
20 State professional license by a State peace officer
21 standards board or its equivalent after affording ad-
22 ministrative due process.”.

23 **SEC. 4. EFFECTIVE DATES.**

24 (a) IN GENERAL.—This Act, and the amendment
25 made by this Act, shall take effect on October 1, 1995.

1 (b) INFORMATION COMPLIANCE.—Not later than 180
2 days after the date of the enactment of this Act, each
3 State, territory, political subdivision of a State or terri-
4 tory, the District of Columbia, Native American Indian
5 tribe or band, and Federal agency employing law enforce-
6 ment and correctional officers shall fully comply with the
7 requirements of section 509A of the Omnibus Crime Con-
8 trol and Safe Streets Act of 1968.

9 **SEC. 5. GRANTS.**

10 The Director of the Bureau of Justice Assistance
11 may authorize grants to agencies to assist in their compli-
12 ance with such section 509A of the Omnibus Crime Con-
13 trol and Safe Streets Act of 1968.

14 **SEC. 6. REPORTS.**

15 Not later than 2 years after the date of enactment
16 of this Act, the Attorney General, upon consultation with
17 the Director of the Bureau of Justice Assistance, shall
18 submit a report to the Committees on the Judiciary of
19 the House of Representatives and the Senate evaluating
20 the compliance with the requirements of section 509A of
21 the Omnibus Crime Control and Safe Streets Act of 1968,
22 and listing each State, territory, political subdivision of a
23 State or territory, the District of Columbia, Native Amer-
24 ican Indian tribe or band, and Federal agency employing
25 law enforcement or correctional officers who have failed

1 materially to comply with the requirements of such sec-
2 tion. Such subsequent reports shall be presented at such
3 time in such form as is deemed appropriate by the Attor-
4 ney General.

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