

the discretion of the court and based on the evidence presented at the hearing, the court may fix a minimum price for the property to be sold by foreclosure that does not exceed the fair market value of the property. If the court fixes a minimum price, the property may not be sold at the foreclosure sale for a lower price.

(j) Appeal. Any person interested in the estate may appeal an order issued under Subsection (i)(1)(C) [(4)] of this section.

SECTION 14. Subsection (a), Section 450, Texas Probato Code, is amended to read as follows:

(a) Any of the following provisions in an insurance policy, contract of employment, bond, mortgage, promissory note, deposit agreement, employees' trust, retirement account, deferred compensation arrangement, custodial agreement, pension plan, trust agreement, conveyance of real or personal property, *securities, accounts with financial institutions as defined in Part 1 of this chapter*, or any other written instrument effective as a contract, gift, conveyance, or trust is deemed to be nontestamentary, and this code does not invalidate the instrument or any provision:

(1) that money or other benefits theretofore due to, controlled, or owned by a decedent shall be paid after his death to a person designated by the decedent in either the instrument or a separate writing, including a will, executed at the same time as the instrument or subsequently;

(2) that any money due or to become due under the instrument shall cease to be payable in event of the death of the promisee or the promissor before payment or demand; or

(3) that any property which is the subject of the instrument shall pass to a person designated by the decedent in either the instrument or a separate writing, including a will, executed at the same time as the instrument or subsequently.

SECTION 15. Part 4, Chapter XI, Texas Probate Code, as added by S.B. No. 504, Acts of the 75th Legislature, Regular Session, 1997, is repealed.

SECTION 16. This Act takes effect September 1, 1997, and applies only to the estate of a person who dies on or after that date. An estate of a person who dies before the effective date of this Act is governed by the law in effect on the date of the person's death, and the former law is continued in effect for that purpose.

SECTION 17. The importance of this legislation and the crowded condition of the calendars in both houses create an emergency and an imperative public necessity that the constitutional rule requiring bills to be read on three several days in each house be suspended, and this rule is hereby suspended.

Passed the Senate on March 26, 1997: Yeas 31, Nays 0; the Senate concurred in House amendments on May 22, 1997, by a viva-voce vote; passed the House with amendments, on May 20, 1997, by a non-record vote.

Approved June 20, 1997.

Effective September 1, 1997.

CHAPTER 1303

S.B. No. 527

AN ACT

relating to prohibiting employment discrimination against certain peace officers for refusing to take a polygraph examination.

Be it enacted by the Legislature of the State of Texas:

SECTION 1. Chapter 614, Government Code, is amended by adding Subchapter E to read as follows:

SUBCHAPTER E. POLYGRAPH EXAMINATIONS

Sec. 614.061. *DEFINITION.* In this subchapter, "peace officer" means a person who:

- (1) is elected, appointed, or employed by a governmental entity; and
- (2) is a peace officer under Article 2.12, Code of Criminal Procedure, or other law.

Sec. 614.062. *APPLICABILITY OF SUBCHAPTER.* This subchapter does not apply to a peace officer to whom Section 411.007 applies.

Sec. 614.063. *POLYGRAPH EXAMINATION.* (a) A peace officer may not be suspended, discharged, or subjected to any other form of employment discrimination by the organization employing or appointing the peace officer because the peace officer refuses to submit to a polygraph examination as part of an internal investigation regarding the conduct of the peace officer unless:

- (1) the complainant submits to and passes a polygraph examination; or
- (2) the peace officer is ordered to take an examination under Subsection (d) or (e).

(b) Subsection (a)(1) does not apply if the complainant is physically or mentally incapable of being polygraphed.

(c) For the purposes of this section, a person passes a polygraph examination if, in the opinion of the polygraph examiner, no deception is indicated regarding matters critical to the matter under investigation.

(d) The head of the law enforcement organization that employs or appoints a peace officer may require the peace officer to submit to a polygraph examination under this subsection if:

- (1) the subject matter of the complaint is confined to the internal operations of the organization employing or appointing the peace officer;
- (2) the complainant is an employee or appointee of the organization employing or appointing the peace officer; and
- (3) the complaint does not appear to be invalid based on the information available when the polygraph is ordered.

(e) The head of the law enforcement organization that employs or appoints a peace officer may require the peace officer to submit to a polygraph examination under this subsection if the head of the law enforcement organization considers the circumstances to be extraordinary and the head of the law enforcement organization believes that the integrity of a peace officer or the law enforcement organization is in question. The head of the law enforcement organization shall provide the peace officer with a written explanation of the nature of the extraordinary circumstances and how the integrity of a peace officer or the law enforcement organization is in question.

SECTION 2. Subsections (a), (c), (d), and (f), Section 143.124, Local Government Code, are amended to read as follows:

(a) A fire fighter [~~or police officer~~] employed by the municipality may not be required to submit to a polygraph examination as part of an internal investigation regarding the conduct of the fire fighter [~~or police officer~~] unless:

- (1) the complainant submits to and passes a polygraph examination and, if applicable, the fire department has complied with Subsection (c); or
- (2) the fire fighter [~~or police officer~~] is ordered to take an examination under Subsection (f).

(c) The fire department shall, on the written request of a fire fighter [~~or police officer~~], provide to the fire fighter [~~or police officer~~] the complainant's polygraph examination results within 48 hours after the request.

(d) For the purposes of this section, a fire fighter [person] passes a polygraph examination if, in the opinion of the polygraph examiner, no deception is indicated regarding matters critical to the subject matter under investigation.

(f) The fire department head may order a fire fighter [~~or police officer~~] to submit to a polygraph examination if the fire department head considers the circumstances to be

extraordinary and the *fire* department head believes that the integrity of a fire fighter [~~or police officer~~] or the *fire* department is in question.

SECTION 3. Subsections (b), (d), and (f), Section 143.313, Local Government Code, are amended to read as follows:

(b) A fire fighter [~~or police officer~~] employed by the municipality may not be required to submit to a polygraph examination as part of an internal investigation regarding the conduct of the fire fighter [~~or police officer~~] unless:

- (1) the complainant submits to and passes a polygraph examination; or
- (2) the fire fighter [~~or police officer~~] is ordered to take an examination under Subsection (f).

(d) For the purposes of this section, a *fire fighter* [~~person~~] passes a polygraph examination if, in the opinion of the polygraph examiner, no deception is indicated in the examination regarding matters critical to the subject matter under investigation.

(f) The head of the *fire* [~~employing~~] department may order a fire fighter [~~or police officer~~] to submit to a polygraph examination if the *fire* department head:

- (1) considers the circumstances to be extraordinary; or
- (2) believes that the integrity of a fire fighter [~~a police officer~~] or the *fire* department is in question.

SECTION 4. Section 157.905, Local Government Code, is repealed.

SECTION 5. The importance of this legislation and the crowded condition of the calendars in both houses create an emergency and an imperative public necessity that the constitutional rule requiring bills to be read on three several days in each house be suspended, and this rule is hereby suspended, and that this Act take effect and be in force from and after its passage, and it is so enacted.

Passed the Senate on April 9, 1997: Yeas 16, Nays 14; the Senate concurred in House amendment on May 26, 1997: Yeas 29, Nays 0; passed the House, with amendment, on May 26, 1997: Yeas 137, Nays 2, one present not voting.

Approved June 20, 1997.

Effective June 20, 1997.

CHAPTER 1304

S.B. No. 548

AN ACT

relating to the punishment for the offense of unlawfully transferring a weapon.

Be it enacted by the Legislature of the State of Texas:

SECTION 1. Subsection (d), Section 46.06, Penal Code, is amended to read as follows:

(d) An offense under this section is a Class A misdemeanor, *except that an offense under Subsection (a)(2) is a state jail felony if the weapon that is the subject of the offense is a handgun.*

SECTION 2. (a) The change in law made by this Act applies only to an offense committed on or after the effective date of this Act. For purposes of this section, an offense is committed before the effective date of this Act if any element of the offense occurs before the effective date.

(b) An offense committed before the effective date of this Act is covered by the law in effect when the offense was committed, and the former law is continued in effect for that purpose.

SECTION 3. This Act takes effect September 1, 1997.

SECTION 4. The importance of this legislation and the crowded condition of the calendars in both houses create an emergency and an imperative public necessity that the