

- SUBJECT:** Progressive disciplinary matrix for police misconduct in certain cities
- COMMITTEE:** Urban Affairs — favorable, without amendment
- VOTE:** 7 ayes — Cortez, Holland, Bernal, Campos, Jarvis Johnson, Minjarez, Morales Shaw
- 2 nays — Gates, Slaton
- WITNESSES:** For — Warren Burkley, Christel Erickson-Collins, and Chas Moore, Austin Justice Coalition; Kathy Mitchell, Just Liberty; Eugene Howard, NAACP; Dr. Candice Matthews, Texas Coalition Of Black Democrats; Koretta Brown, The Alliance For A New Justice System; (*Registered, but did not testify*: Jason Guidangen, Equality Texas; Minister Dominique Alexander, NGAN; Frances Schenkkan, Texas Gun Sense; Joshua Houston, Texas Impact; Michael Spates, The Alliance For A New Justice System; Madeline Kennedy; Karen Munoz)
- Against — (*Registered, but did not testify*: Jon Weist, City of Irving; Jennifer Szimanski, CLEAT; James Parnell, Dallas Police Association; Ray Hunt, HPOU; Jimmy Rodriguez, San Antonio Police Officers Association; Kevin Lawrence, Texas Municipal Police Association; Collin Craig, Texas Police Chiefs Association; Frederick Frazier, Texas State Fraternal Order of Police and Dallas Police Association)
- On — (*Registered, but did not testify*: Ben Yisrael, Center for Justice Research; Thomas Parkinson)
- BACKGROUND:** Local Government Code ch. 143 establishes municipal civil service law for fire fighters and police officers. The law applies only to a city that has a population of at least 10,000, has paid fire and police departments, and has voted to adopt the law. Each city establishes a Fire Fighters' and Police Officers' Civil Service Commission to administer the law.
- DIGEST:** HB 829 would require a Fire Fighters' and Police Officers' Civil Service Commission to implement a disciplinary matrix for infractions committed

by police officers that consisted of a range of progressive disciplinary actions applied in a standardized way based on the nature of the infraction and the officer's prior conduct record. Disciplinary actions would include:

- removal;
- suspension;
- change of duty or assignment;
- demotion;
- deduction of points from a promotional exam grade;
- retraining; or
- a written warning or reprimand.

The disciplinary matrix would have to include:

- standards for disciplinary actions relating to the use of force against another person, including the failure to de-escalate force incidents in accordance with departmental policy;
- standards for evaluating the level of discipline appropriate for uncommon infractions; and
- presumptive actions to be taken for each type of infraction and any adjustment to be made based on a police officer's previous disciplinary record.

Under the bill, a Fire Fighters' or Police Officers' Civil Service Commission would have to adopt rules that prescribed the disciplinary actions that could be taken against a police officer under a progressive disciplinary matrix, rather than adopting rules that prescribe cause for removal or suspension of an officer.

The bill would require certain public employers to implement a progressive disciplinary matrix as described in the bill for municipal police officers if the municipalities had not adopted the fire fighters' and police officers' civil service law.

The bill would require certain agreements on police officer employment

matters in certain municipalities to implement the disciplinary matrix. Such agreements could not conflict with or supersede a statute, ordinance, order, civil service provision, or rule concerning the disciplinary actions that could be imposed on a police officer under the matrix.

If a police officer appealed certain actions to a hearing examiner, the examiner would have to presume a disciplinary action applied to an officer under a progressive disciplinary matrix was reasonable, unless the facts indicated that the department inappropriately applied a category of offense to the particular violation.

HB 829 would require the Bill Blackwood Law Enforcement Management Institute of Texas (LEMITE) to consult with law enforcement agencies of all sizes, law enforcement associations, training experts, and others to develop a model progressive disciplinary matrix and associated training materials on the application of the matrix.

LEMITE would have to adopt and disseminate the model matrix and training materials to all law enforcement agencies and civil service commissions by January 1, 2022. LEMITE would have to provide for a public comment period before adopting the model and training materials.

The bill would take effect September 1, 2021, and would apply only to a disciplinary action for conduct that occurred or an agreement entered into or renewed on or after March 1, 2022.

**SUPPORTERS
SAY:**

HB 829 would ensure greater uniformity in the discipline of police officer misconduct across the state, helping to restore public confidence and trust in law enforcement.

Studies have shown that many disciplinary actions issued by police chiefs and taken against officers are overturned on appeal based on fairness. An officer could appeal because the officer received different disciplinary action than another officer in similar circumstances. By providing for the creation of a model progressive disciplinary matrix, the bill would establish a fair, standard, and consistent approach to governing police

officer misconduct. The use of the matrix not only would help guide decision makers in dispensing fair and uniform disciplinary actions but also would give police officers, departments, and the public greater certainty about the range of disciplinary actions and which punishments were reasonable for various forms of misconduct.

The bill would retain arbitration in civil-service cities and simply provide arbitrators more guidance in making decisions. The bill would not change the meet and confer negotiations in any city because police chiefs would still maintain power to determine discipline. Furthermore, if discipline is fair and consistent, it is less likely to be overturned.

**CRITICS
SAY:**

Decisions relating to disciplinary action for police officer misconduct should be left to local negotiations rather than made through the use of a statewide model disciplinary matrix as required under HB 829. Current disciplinary processes are negotiated on the local level through meet and confer agreements, which gives cities the discretion to adopt a process that best fits their local departments and communities. Eliminating this discretion also could negatively impact due process.