

## **BILL ANALYSIS**

Senate Research Center

H.B. 1589  
By: Driver (Williams)  
Criminal Justice  
5/18/2005  
Engrossed

### **AUTHOR'S/SPONSOR'S STATEMENT OF INTENT**

Most local and state law enforcement agencies conduct pre-employment polygraph testing before hiring an applicant as a peace officer. The FBI, CIA, Secret Service, and Bureau of Alcohol, Tobacco, Firearms, and Explosives also conduct such testing. Pre-employment polygraph testing enables these agencies to cull out undesirable candidates for commissioning as peace officers.

Currently, the Department of Public Safety does not administer pre-employment polygraph testing. Therefore, they are unable to use this additional tool to ascertain the character of potential officers. Officers who fail polygraph tests at other agencies or who know they would be unable to pass such a test apply to the Department of Public Safety. In an effort to increase the collective professionalism of DPS officers as well as decrease the costs, liabilities and detrimental effects of employing objectionable officers, H.B. 1589 requires the department to administer pre-employment polygraph tests to all applicants for commissioned officer or police communications operator positions.

### **RULEMAKING AUTHORITY**

Rulemaking authority is expressly granted to the Department of Public Safety in SECTION 2 (Section 411.0074, Government Code) of this bill.

### **SECTION BY SECTION ANALYSIS**

SECTION 1. Amends Section 411.007(c), Government Code, to provide that Section 411.0074 does not authorize the Department of Public Safety (DPS) to require an officer commissioned by DPS to take a polygraph examination.

SECTION 2. Amends Subchapter A, Chapter 411, Government Code, by adding Section 411.0074 , as follows:

Sec. 411.0074. POLYGRAPH EXAMINATIONS FOR CERTAIN APPLICANTS. (a) Provides that this section does not apply to certain individuals.

(b) Requires DPS to require an applicant to submit to the administration of a polygraph examination in accordance with rules adopted under Subsection (e) before commissioning the applicant as a peace officer or employing an applicant for a police communications operator position.

(c) Authorizes the polygraph examination required by this section to only be administered by certain licensed polygraph examiners.

(d) Requires DPS and the polygraph examiner to maintain the confidentiality of the results of a polygraph examination administered under this section, with certain exceptions.

(e) Requires DPS to adopt reasonable rules to specify the point in the hiring process at which it shall require a polygraph examination to be administered under this section and the manner in which the examination shall be administered. Requires rules relating to the administration of a polygraph examination to be adopted in accordance with the guidelines published by the American Polygraph Association or the American Association of Police Polygraphists.

(f) Requires DPS to use the results of a polygraph examination under this section as a factor in determining whether to commission a peace officer or employ an applicant for the position of police communications operator.

SECTION 3. Makes application of Section 411.0074, Government Code, as added by this Act, prospective.

SECTION 4. Effective date: upon passage or September 1, 2005.