

BILL ANALYSIS

Senate Research Center

C.S.S.B. 732
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Criminal Justice
3/22/2005
Committee Report (Substituted)

AUTHOR'S/SPONSOR'S STATEMENT OF INTENT

A pre-employment polygraph examination can be an essential tool for a law enforcement agency to use in recruiting candidates with the highest qualities of honesty and integrity. The Texas Department of Public Safety (DPS) must be able to select those applicants who possess the highest qualities of moral character to serve the state. However, there is currently no legislative mandate to require DPS to use a pre-employment polygraph examination to ensure that such individuals are tapped to fill these sensitive positions. A pre-employment polygraph examination would be an additional tool, in conjunction with the current background investigation, that DPS could use to learn as much as possible about an applicant.

In a recent study of 43 local law enforcement agencies, 34 currently use a pre-employment polygraph in their application process. On a national level, law enforcement agencies that use pre-employment polygraph exams indicate high levels of confidence in the polygraph results, with many saying it reveals information not available otherwise, deters undesirable candidates, and makes background information easier to establish.

C.S.S.B. 732 requires a polygraph examination of persons applying for certain peace officer and 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) Sets forth the persons to whom this section does not apply.

(b) Requires DPS to require applicants for a peace officer or police communications operator position in DPS to submit to the administration of a polygraph examination prior to employment. Requires the polygraph examination to be administered at a point in the hiring process as determined by DPS by rule.

(c) Requires the polygraph examination to be administered by a polygraph examiner licensed under Chapter 1703 (Polygraph Examiners), Occupations Code, who has certain qualifications.

(d) Requires DPS and the polygraph examiner to maintain the confidentiality of the results of the polygraph examination, and sets forth certain exceptions.

(e) Requires DPS to adopt reasonable rules for the administration of a polygraph examination under this section 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.