

BILL ANALYSIS

Senate Research Center
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S.B. 1395
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Criminal Justice
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As Filed

AUTHOR'S / SPONSOR'S STATEMENT OF INTENT

Background

- For years, the employee grievance system within the Texas Department of Criminal Justice (TDCJ) has been the focus of complaints about miscommunication of rules, filing procedures and deadlines, and the appeals process.
- At a time when staffing shortages have continued to impact the agency's ability to hire employees to maintain appropriate staffing at prisons across Texas, the system has continued to contribute a vacancy rate that agency officials say remains too high.
- Private companies the size of the agency have much clearer employee grievance processes that positively benefit their operations and hiring and retention policies.
- A clearer, more transparent employee-grievance system this agency, one of the state's largest, could benefit its hiring and retention policies in much the same way, to both alleviate complaints and allow for an improved employment process not subject to high numbers of complaints and potential litigation.

Bill Summary

- S.B. 1596 directs the Texas Board of Criminal Justice (TBCJ) to create a committee on professional standards and employment oversight to review the implementation of and make necessary recommendations for rule and policy changes within the agency.
- The committee would be made up of TBCJ members.
- The panel would oversee professional development of correctional officers, supervisory personnel and other department employees, recruitment and retention policies, and employee-related grievance procedures.
- The committee would submit a report biennially to the legislature on its review of those topics.
- Additionally, procedures and practices would be established regarding the handling of grievances and appeals and the representation of employees in that process, including arbitration and a prohibition on retaliation against employees for filing employment-related grievances.
- TDCJ would submit to TBCJ an annual statistical report on grievances.
- The measure would take effect on September 1, 2021.

As proposed, S.B. 1395 amends current law relating to certain personnel policies of the Texas Department of Criminal Justice and to certain related duties of the Texas Board of Criminal Justice.

RULEMAKING AUTHORITY

This bill does not expressly grant any additional rulemaking authority to a state officer, institution, or agency.

SECTION BY SECTION ANALYSIS

SECTION 1. Amends Chapter 492, Government Code, by adding Section 492.018, as follows:

Sec. 492.018. PROFESSIONAL STANDARDS AND EMPLOYMENT OVERSIGHT COMMITTEE. (a) Requires the Texas Board of Criminal Justice (TBCJ) to create a professional standards and employment oversight committee composed of TBCJ members to review the implementation of and make necessary recommendations for rule and policy changes to:

- (1) professional development of correctional officers, supervisory personnel, and other Texas Department of Criminal Justice (TDCJ) employees;
- (2) recruitment and retention policies; and
- (3) employment-related grievance procedures established under Section 493.034.

(b) Requires TBCJ to submit a report biennially to the legislature that includes:

- (1) the results of the review conducted under Subsection (a) and any recommendations made under that subsection; and
- (2) the information contained in the report submitted by TDCJ to TBCJ under Section 493.034(f).

SECTION 2. Amends Chapter 493, Government Code, by adding Section 493.034, as follows:

Sec. 493.034. EMPLOYMENT-RELATED GRIEVANCE PROCEDURE. (a) Requires TBCJ to establish procedures and practices through which TDCJ will address employment-related grievances. Requires TBCJ to adopt:

- (1) a process by which an employee's employment-related grievance is submitted to the lowest appropriate level of management, with a subsequent appeal submitted to a higher level in the chain of command, on completion of which the employee may choose to submit the grievance to binding arbitration with an impartial third party; and
- (2) a program to advertise and explain the grievance procedure to all employees.

(b) Prohibits a party to the employment-related grievance, if the party fails to comply with any applicable time limit adopted by TBCJ for submitting or responding to a grievance, from prevailing in the grievance action.

(c) Authorizes an employee to select a person to represent the employee and participate in the employment-related grievance process on behalf of the employee. Requires that any grievance proceeding in which a TDCJ employee serves as a representative be held during the normal business hours of TDCJ, unless the employee and TDCJ agree otherwise. Provides that attending a grievance proceeding as a party to the proceeding or as a representative of a party is part of an employee's regular employment duties.

(d) Authorizes TDCJ and an employee, subject to the approval of the employee in the employment-related grievance action, to enter into binding arbitration on the action. Authorizes TDCJ, to facilitate arbitration, to:

(1) with the approval of the employee, appoint a governmental officer or employee, or a private individual, to serve as an impartial third party in a binding arbitration; or

(2) obtain the services of an impartial third party through:

(A) an agreement with the Center for Public Policy Dispute Resolution at The University of Texas School of Law;

(B) an alternative dispute resolution system established under Chapter 152 (Alternative Dispute Resolution System Established by Counties), Civil Practice and Remedies Code;

(C) another governmental body or a federal agency; or

(D) an agreement with the State Office of Administrative Hearings.

(e) Prohibits TDCJ from retaliating against an employee who files an employment-related grievance.

(f) Requires TDCJ to submit annually to TBCJ a report on TDCJ's use of the employment-related grievance process. Requires that the report include the number of grievances filed, a brief description of each grievance filed, and the final disposition of each grievance.

SECTION 3. Requires TBCJ, not later than December 1, 2021, to establish a professional standards and employment oversight committee as required by Section 492.018, Government Code, as added by this Act, and not later than April 1, 2022, to establish the procedures and practices required by Section 493.034, Government Code, as added by this Act.

SECTION 4. Effective date: September 1, 2021.