

BILL ANALYSIS

Senate Research Center

S.B. 24
By: Huffman
Jurisprudence
5/31/2021
Enrolled

AUTHOR'S / SPONSOR'S STATEMENT OF INTENT

Recent reports indicate that, despite the numerous law enforcement officers who serve their community with distinction and honor, a few unfit officers brandish the badge by bouncing from one law enforcement agency to another.

S.B. 24 establishes law enforcement hiring procedures that hold both applicants and law enforcement agencies accountable by requiring review of pertinent records of prior conduct and activities before an applicant is hired by a law enforcement agency. Specifically, the bill requires law enforcement agencies to review basic background information on applicants during the hiring process, including the applicant's personnel file at any previous law enforcement agency. Upon completion, the hiring agency must certify to the Texas Commission on Law Enforcement (TCOLE) that it has reviewed the required information.

(Original Author's / Sponsor's Statement of Intent)

S.B. 24 amends current law relating to the procedures required before a law enforcement agency hires certain persons.

RULEMAKING AUTHORITY

Rulemaking authority previously granted to the Texas Commission on Law Enforcement is modified in SECTION 4 (Section 1701.451, Occupations Code) of this bill.

SECTION BY SECTION ANALYSIS

SECTION 1. Amends Section 143.089, Local Government Code, by amending Subsection (g) and adding Subsection (h), as follows:

(g) Creates an exception under Subsection (h) to the prohibition against a fire or police department releasing any information contained in the personnel file on a fire fighter or police officer employed by the department for the department's use to any agency or person requesting information relating to a fire fighter or police officer. Makes a nonsubstantive change.

(h) Provides that, as provided by Section 1701.451, Occupations Code, a law enforcement agency hiring a police officer is entitled to view the contents of the officer's personnel file maintained under Subsection (g).

SECTION 2. Amends the heading to Subchapter J, Chapter 1701, Occupations Code, to read as follows:

SUBCHAPTER J. EMPLOYMENT RECORDS AND PREEMPLOYMENT PROCEDURE

SECTION 3. Amends the heading to Section 1701.451, Occupations Code, to read as follows:

Sec. 1701.451. PREEMPLOYMENT PROCEDURE.

SECTION 4. Amends Section 1701.451, Occupations Code, by amending Subsections (a), (b), and (c) and adding Subsections (d), (e), and (f), as follows:

(a) Requires a law enforcement agency, before the agency is authorized to hire a person licensed under Chapter 1701 (Law Enforcement Officers), to, on a form and in the manner prescribed by the Texas Commission on Law Enforcement (TCOLE):

(1) obtain the person's written consent for the agency to review the information required to be reviewed under this section;

(2) request from TCOLE and any other applicable person information required to be reviewed under this section; and

(3) submit to TCOLE confirmation that the agency, to the best of the agency's ability before hiring the person, contacted each entity or individual necessary to obtain the information required to be reviewed under this section and, except as provided by Subsection (b), obtained and reviewed certain information as related to the person, as applicable.

Deletes existing text requiring the head of a law enforcement agency or the agency head's designee, before the agency is authorized to hire a person licensed under this chapter, to make a request to TCOLE for any employment termination report regarding the person that is maintained by TCOLE under this subchapter and to submit to TCOLE on the form prescribed by TCOLE confirmation that the agency met certain criteria.

(b) Requires that, if an entity or individual contacted for information required to be reviewed under this section refused to provide the information or did not respond to the request for information, the confirmation submitted to TCOLE document the manner of the request and the refusal or lack of response. Deletes existing text requiring TCOLE by rule to establish a system for verifying an electronically submitted request required by Subsection (a)(1).

(c) Requires TCOLE or a law enforcement agency, if TCOLE or a law enforcement agency receives from a law enforcement agency a request for information under this section and the person's consent on the forms and in the manner prescribed by TCOLE, to provide the information to the requesting agency. Deletes existing text requiring the TCOLE employee having the responsibility to maintain any employment termination report regarding the person who is the subject of the request, if TCOLE receives from a law enforcement agency a request that complies with Subsections (a)(1) and (b), to release the report to the agency.

(d) Provides that the confirmation form submitted to TCOLE under this section is not confidential and is subject to disclosure under Chapter 552 (Public Information), Government Code.

(e) Requires TCOLE to:

(1) by rule establish the forms and procedures required by this section, including:

(A) the process by which a law enforcement agency is required to make a person's employment records electronically available to a law enforcement agency hiring a person licensed under this chapter;

(B) appropriate privacy and security protections for the process described by Paragraph (A); and

(C) a rule prohibiting a confirmation form submitted to TCOLE under this section from containing confidential information described by Section 552.1175(b) (relating to prohibiting certain contact information of certain government employees from being disclosed to the public under Chapter

552), Government Code, regarding the person who is the subject of the confirmation form;

(2) post the forms and procedures on TCOLE's Internet website; and

(3) retain a record of each confirmation form submitted under this section.

(f) Requires the head of a law enforcement agency or the agency head's designee to review and sign each confirmation form required under this section before submission to TCOLE. Provides that the failure of an agency head or the agency head's designee to comply with this subsection constitutes grounds for suspension of the agency head's license under Section 1701.501 (Disciplinary Action).

SECTION 5. Amends Section 1701.456(b), Occupations Code, as follows:

(b) Provides that a law enforcement agency, agency head, or other law enforcement official is not liable for certain civil damages, including civil damages for making a person's information available to a hiring law enforcement agency under Section 1701.451. Makes nonsubstantive changes.

SECTION 6. Repealer: Section 1701.451(a-1) (relating to requiring a law enforcement agency that obtains a consent form to view a person's employment records to make the person's employment records available to a hiring law enforcement agency on request), Occupations Code.

SECTION 7. (a) Requires TCOLE, not later than January 1, 2022, to adopt the rules necessary to implement Section 1701.451, Occupations Code, as amended by this Act.

(b) Makes application of this Act prospective to January 1, 2022.

SECTION 8. Effective date: September 1, 2021.