

By: White

H.B. No. 1396

A BILL TO BE ENTITLED

AN ACT

relating to law enforcement agencies and policies and procedures affecting peace officers.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

SECTION 1. Chapter 2, Code of Criminal Procedure, is amended by adding Article 2.1397 to read as follows:

Art. 2.1397. DUTIES OF LAW ENFORCEMENT AGENCY REGARDING PEACE OFFICER MISCONDUCT; DATABASE. (a) In this article:

(1) "Commission" means the Texas Commission on Law Enforcement.

(2) "Law enforcement agency" means an agency of this state or an agency of a political subdivision of this state authorized by law to employ peace officers.

(b) Each law enforcement agency in this state shall report to the commission each incident of misconduct by a peace officer employed by the agency, including:

(1) a conviction for a criminal offense committed in the course of performing the officer's duties; or

(2) the use of excessive force against a person suspected of committing an offense.

(c) In reporting an incident of misconduct under Subsection (b), the law enforcement agency shall also report whether the agency terminated or took disciplinary action against the peace officer or permitted the peace officer to retire or resign in lieu

1 of termination for the misconduct.

2 (d) The commission shall establish a database for
3 information reported to the commission under this article.

4 (e) The commission shall make information in the database
5 accessible by all law enforcement agencies in this state.

6 (f) The commission may make information regarding an
7 incident of misconduct that is maintained in the database available
8 to a federal law enforcement agency that is investigating the
9 incident.

10 (g) Information maintained in the database is confidential
11 and not subject to disclosure under Chapter 552, Government Code.

12 (h) Not later than March 1 of each year, the commission
13 shall make available on its Internet website a report regarding
14 incidents of misconduct reported during the preceding calendar
15 year. The report must include:

16 (1) the total number of incidents reported to the
17 commission under this article during that period; and

18 (2) information regarding:

19 (A) the most common types of misconduct reported;
20 and

21 (B) disciplinary action taken by the law
22 enforcement agency, including termination or permitting the peace
23 officer to retire or resign in lieu of termination.

24 (i) A report under Subsection (h) may not include
25 information identifying a specific peace officer.

26 SECTION 2. Subchapter A, Chapter 772, Government Code, is
27 amended by adding Section 772.0055 to read as follows:

1 Sec. 772.0055. LIMITATION ON ELIGIBILITY FOR GRANT. (a) In
2 this section, "law enforcement agency" means an agency of this
3 state or an agency of a political subdivision of this state
4 authorized by law to employ peace officers.

5 (b) Notwithstanding any other law, to be eligible to receive
6 a grant or other discretionary funding by the governor, a law
7 enforcement agency must:

8 (1) consistently report incidents of misconduct as
9 required by Article 2.1397, Code of Criminal Procedure; and

10 (2) maintain a current certification, issued by a
11 credentialing entity designated under Section 1701.165(d),
12 Occupations Code, certifying that the agency's policies regarding
13 use of force by peace officers:

14 (A) comply with all applicable laws; and

15 (B) prohibit the use of choke holds or other
16 physical maneuvers to restrict a person's ability to breathe for
17 purpose of incapacitation unless the officer is justified in using
18 deadly force against the person.

19 (c) For purposes of Subsection (b)(1), on request, the Texas
20 Commission on Law Enforcement shall provide information to the
21 governor's office regarding reporting of incidents of misconduct by
22 a law enforcement agency.

23 SECTION 3. Subchapter D, Chapter 1701, Occupations Code, is
24 amended by adding Sections 1701.165 and 1701.166 to read as
25 follows:

26 Sec. 1701.165. ADVISORY COMMITTEE ON LAW ENFORCEMENT AGENCY
27 CREDENTIALING ENTITIES. (a) The commission shall establish an

1 advisory committee to advise the commission regarding law
2 enforcement agency credentialing entities.

3 (b) The advisory committee must include representatives of:

4 (1) municipal and county law enforcement agencies,
5 including agencies of varying size and from different areas of this
6 state;

7 (2) the Department of Public Safety;

8 (3) the Texas Department of Criminal Justice; and

9 (4) entities that operate correctional facilities
10 under contract with a county or the Texas Department of Criminal
11 Justice.

12 (c) The advisory committee shall review entities that
13 provide credentialing to law enforcement agencies and identify
14 credentialing entities that, at a minimum, establish standards and
15 processes for reviewing adherence to the standards in the following
16 aspects of a law enforcement agency's operations:

17 (1) policies and training regarding use of force and
18 de-escalation techniques;

19 (2) performance management tools;

20 (3) procedures to ensure prompt identification of
21 peace officers requiring intervention; and

22 (4) best practices regarding community engagement.

23 (d) The commission shall designate, for purposes of
24 certifying that the policies of a law enforcement agency comply
25 with the requirements of Section 772.0055(b)(2), Government Code,
26 one or more of the credentialing entities identified by the
27 advisory committee under Subsection (c).

1 Sec. 1701.166. COORDINATED RESPONSE PROGRAM MODEL POLICY.

2 (a) In this section, "coordinated response program" means a
3 program operated by a law enforcement agency in which a peace
4 officer and a mental health professional jointly respond to a
5 report of an alleged offense or other incident involving a person
6 with a mental impairment, suffering from homelessness, or
7 experiencing similar circumstances.

8 (b) The commission, in consultation with the Health and
9 Human Services Commission and state and local law enforcement
10 agencies, shall develop and make available to all law enforcement
11 agencies in this state a model policy and associated training
12 materials regarding the operation of a coordinated response
13 program.

14 (c) In developing the model policy, the commission shall:

15 (1) survey coordinated response programs implemented
16 in this state or another state; and

17 (2) consider the creation of specialized training
18 programs for officers and mental health professionals
19 participating in a coordinated response program.

20 SECTION 4. (a) Not later than January 1, 2022, the Texas
21 Commission on Law Enforcement shall:

22 (1) establish the database required by Article 2.1397,
23 Code of Criminal Procedure, as added by this Act;

24 (2) establish the advisory committee required by
25 Section 1701.165, Occupations Code, as added by this Act; and

26 (3) develop and make available the model policy and
27 associated training materials required by Section 1701.166,

1 Occupations Code, as added by this Act.

2 (b) Not later than June 1, 2022, the Texas Commission on Law
3 Enforcement shall designate one or more credentialing entities as
4 required by Section 1701.165, Occupations Code, as added by this
5 Act.

6 SECTION 5. Section 772.0055, Government Code, as added by
7 this Act, applies only to a grant awarded by the office of the
8 governor on or after September 1, 2022. A grant awarded before
9 September 1, 2022, is governed by the law in effect immediately
10 before the effective date of this Act, and the former law is
11 continued in effect for that purpose.

12 SECTION 6. This Act takes effect September 1, 2021.