

AN ACT

relating to the continuation and functions of the Texas Commission on Law Enforcement; authorizing a fee.

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

SECTION 1. Section 1701.001, Occupations Code, is amended by adding Subdivision (2-a) to read as follows:

(2-a) "Misconduct" means:

(A) a violation of law; or

(B) any of the following that have been sustained

by a law enforcement agency employing a license holder:

(i) a violation of a law enforcement agency policy for which the agency may suspend, demote, or terminate a license holder's employment; or

(ii) an allegation of untruthfulness against a license holder.

SECTION 2. Section 1701.002, Occupations Code, is amended to read as follows:

Sec. 1701.002. APPLICATION OF SUNSET ACT. The Texas Commission on Law Enforcement is subject to Chapter 325, Government Code (Texas Sunset Act). Unless continued in existence as provided by that chapter, the commission is abolished and this chapter expires September 1, 2031 [~~2023~~].

SECTION 3. Section 1701.059, Occupations Code, is amended by amending Subsection (b) and adding Subsection (d) to read as

1 follows:

2 (b) The training program must provide the person with
3 information regarding:

4 (1) the law governing [~~legislation that created the~~
5 commission operations;

6 (2) the programs, functions, rules, and budget of the
7 commission;

8 (3) the scope of and limitations on the rulemaking
9 authority of the commission;

10 (4) the results of the most recent formal audit of the
11 commission;

12 (5) [~~(4)~~] the requirements of:

13 (A) laws relating to open meetings, public
14 information, administrative procedure, and disclosing conflicts of
15 interest; and

16 (B) other laws applicable to members of a state
17 policy-making body in performing their duties; and

18 (6) [~~(5)~~] any applicable ethics policies adopted by
19 the commission or the Texas Ethics Commission.

20 (d) The executive director of the commission shall create a
21 training manual that includes the information required by
22 Subsection (b). The executive director shall distribute a copy of
23 the training manual annually to each member of the commission. Each
24 commission member shall sign and submit to the executive director a
25 statement acknowledging that the member received and has reviewed
26 the training manual.

27 SECTION 4. Section 1701.151, Occupations Code, is amended

1 to read as follows:

2 Sec. 1701.151. GENERAL POWERS OF COMMISSION; RULEMAKING
3 AUTHORITY. The commission may:

4 (1) adopt rules for the administration of this chapter
5 and for the commission's internal management and control;

6 (2) establish minimum standards relating to
7 competence and reliability, including education, training,
8 physical, and mental~~[, and moral]~~ standards, for licensing as an
9 officer, county jailer, public security officer, or
10 telecommunicator;

11 (3) report to the governor and legislature on the
12 commission's activities, with recommendations on matters under the
13 commission's jurisdiction, and make other reports that the
14 commission considers desirable;

15 (4) require a state agency or a county, special
16 district, or municipality in this state that employs officers,
17 telecommunicators, or county jailers to submit reports and
18 information;

19 (5) contract as the commission considers necessary for
20 services, facilities, studies, and reports required for:

21 (A) cooperation with municipal, county, special
22 district, state, and federal law enforcement agencies in training
23 programs; and

24 (B) performance of the commission's other
25 functions; and

26 (6) conduct research and stimulate research by public
27 and private agencies to improve law enforcement and police

1 administration.

2 SECTION 5. Section 1701.163, Occupations Code, is amended
3 to read as follows:

4 Sec. 1701.163. MINIMUM STANDARDS FOR LAW ENFORCEMENT
5 AGENCIES [~~INFORMATION PROVIDED BY COMMISSIONING ENTITIES~~]. [~~(a)~~
6 ~~This section applies only to an entity authorized by statute or by~~
7 ~~the constitution to create a law enforcement agency or police~~
8 ~~department and commission, appoint, or employ officers that first~~
9 ~~creates a law enforcement agency or police department and first~~
10 ~~begins to commission, appoint, or employ officers on or after~~
11 ~~September 1, 2009.~~

12 [~~(b)~~] The [~~entity shall submit to the~~] commission, with
13 input from an advisory committee, shall by rule establish minimum
14 standards with respect to the creation or continued operation of a
15 law enforcement agency based on the function, size, and
16 jurisdiction of the agency, including [~~on creation of the law~~
17 ~~enforcement agency or police department information regarding~~]:

18 (1) a determination regarding the public benefit of
19 creating the [~~need for the law enforcement~~] agency [~~or police~~
20 ~~department~~] in the community;

21 (2) the sustainable funding sources for the [~~law~~
22 ~~enforcement~~] agency [~~or police department~~];

23 (3) the physical resources available to officers,
24 including:

25 (A) all standard duty firearms;

26 (B) less lethal force weapons, including a
27 requirement of at least one per officer on duty;

1 (C) effective communications equipment;

2 (D) protective equipment, including a
3 requirement of at least one bullet-resistant vest per officer on
4 duty;

5 (E) officer uniforms; and

6 (F) patrol vehicles and associated equipment;

7 (4) the physical facilities of ~~[that]~~ the ~~[law~~
8 ~~enforcement]~~ agency ~~[or police department will operate]~~, including
9 any ~~[descriptions of the]~~ evidence room, dispatch area, or ~~[and]~~
10 public area;

11 (5) the ~~[law enforcement]~~ policies of the ~~[law~~
12 ~~enforcement]~~ agency ~~[or police department]~~, including policies on:

13 (A) use of force;

14 (B) vehicle pursuit;

15 (C) professional conduct of officers;

16 (D) domestic abuse protocols;

17 (E) response to missing persons;

18 (F) supervision of part-time officers; ~~[and]~~

19 (G) impartial policing;

20 (H) active shooters; and

21 (I) barricaded subjects;

22 (6) the administrative structure of the ~~[law~~
23 ~~enforcement]~~ agency ~~[or police department]~~;

24 (7) liability insurance; and

25 (8) any other standard ~~[information]~~ the commission
26 considers necessary ~~[requires by rule]~~.

27 SECTION 6. Subchapter D, Chapter 1701, Occupations Code, is

1 amended by adding Sections 1701.165, 1701.166, 1701.167, 1701.168,
2 1701.169, and 1701.170 to read as follows:

3 Sec. 1701.165. ADVISORY COMMITTEES. (a) The commission by
4 rule may establish advisory committees to make recommendations to
5 the commission on programs, rules, and policies administered by the
6 commission.

7 (b) In establishing an advisory committee under this
8 section, the commission shall adopt rules, including rules
9 regarding:

10 (1) the purpose, role, responsibility, goals, and
11 duration of the committee;

12 (2) the size of and quorum requirement for the
13 committee;

14 (3) qualifications for committee membership;

15 (4) appointment procedures for members;

16 (5) terms of service for members;

17 (6) training requirements for members;

18 (7) policies to avoid conflicts of interest by
19 members;

20 (8) a periodic review process to evaluate the
21 continuing need for the committee; and

22 (9) policies to ensure the committee does not violate
23 any provision of Chapter 551, Government Code, applicable to the
24 commission or the committee.

25 Sec. 1701.166. SUBPOENA. (a) The commission may compel by
26 subpoena the production for inspection or copying of a record
27 described by Section 1701.162(a) that is relevant to the

1 investigation of an alleged violation of this chapter or a
2 commission rule.

3 (b) The commission, acting through the attorney general,
4 may bring an action to enforce a subpoena issued under Subsection
5 (a) against a person who fails to comply with the subpoena.

6 (c) Venue for an action brought under Subsection (b) is in a
7 district court in:

8 (1) Travis County; or

9 (2) any county in which the commission may conduct a
10 hearing.

11 (d) The court shall order compliance with the subpoena if
12 the court finds that good cause exists to issue the subpoena.

13 Sec. 1701.167. POLICY REGARDING EXAMINATION OF LICENSE
14 HOLDER OR APPLICANT. (a) The commission, with input from an
15 advisory committee, shall adopt a model policy prescribing
16 standards and procedures for the medical and psychological
17 examination of a license holder or person for whom a license is
18 sought by a law enforcement agency to ensure the license holder or
19 person is able to perform the duties for which the license is
20 required. The model policy must:

21 (1) apply to examinations of:

22 (A) a person to whom Section 1701.306 applies;

23 (B) a person licensed as an officer or county
24 jailer who is appointed as an officer or county jailer after the
25 180th day after the person's last date of service as an officer or
26 county jailer;

27 (C) school marshals, as described by Section

1 1701.260; and

2 (D) a license holder, if ordered by the law
3 enforcement agency employing the license holder for just cause;

4 (2) require, for an examination described by
5 Subdivision (1)(D), that the employing agency:

6 (A) provide to the license holder written notice
7 of the examination that includes the reasons for the examination
8 not later than the 10th business day before the deadline to submit
9 to the examination; and

10 (B) report to the commission, in the manner
11 prescribed by the commission, the refusal of the license holder to
12 submit to the examination within the period provided by Paragraph
13 (A); and

14 (3) require the reporting to the commission, in the
15 manner prescribed by the commission, of a license holder's failed
16 examination, unless the license holder submits to and successfully
17 completes an applicable treatment program within a reasonable time,
18 as prescribed by the commission.

19 (b) Each law enforcement agency in this state shall adopt
20 the model policy described by Subsection (a) or a substantively
21 similar policy. A policy adopted by a law enforcement agency under
22 this section must be submitted to the commission, and the
23 commission shall maintain a copy of the policy.

24 (c) The providing of notice by a law enforcement agency to
25 the commission of a license holder's refusal to submit to an
26 examination does not preclude the agency employing the license
27 holder from taking disciplinary action against the license holder,

1 including termination of the license holder's employment with the
2 agency.

3 (d) The commission shall issue an order requiring a license
4 holder who refuses to submit to an examination required by a policy
5 adopted under Subsection (b) to show cause for the license holder's
6 refusal at a hearing on the order scheduled for not later than the
7 30th day after the date notice is served on the license holder. The
8 commission shall provide notice under this section by personal
9 service or by registered mail, return receipt requested.

10 (e) At the hearing, the license holder may appear in person
11 and by counsel and present evidence to justify the license holder's
12 refusal to submit to examination. After the hearing, the
13 commission shall issue an order requiring the license holder to
14 submit to an examination under this section or withdrawing the
15 request for the examination.

16 (f) Unless the request is withdrawn, the commission may
17 suspend or otherwise restrict the license of a license holder who
18 refuses to submit to the examination.

19 (g) An appeal from the commission's order under this section
20 is governed by Chapter 2001, Government Code.

21 (h) If the results of an examination under this section show
22 that the license holder does not meet the standards of the policy
23 adopted under Subsection (b), the commission shall suspend the
24 license holder's license.

25 (i) Records relating to a request or order of the commission
26 or a hearing or examination conducted under this section,
27 including, if applicable, the identity of the person notifying the

1 commission that a license holder may not meet the standards
2 required by the policy adopted under Subsection (b), are
3 confidential and not subject to disclosure under Chapter 552,
4 Government Code.

5 (j) An order issued by the commission regarding a license
6 holder that is based on information obtained during an examination
7 under this section may only reference the statutory basis for the
8 order and may not disclose the reason for the examination.

9 Sec. 1701.168. LICENSING STATUS DATABASE. (a) The
10 commission shall establish a database containing, for each officer
11 licensed under this chapter:

12 (1) the officer's license status, including a record
13 of any action taken against the officer by the commission; and

14 (2) personnel files, as described by Section
15 1701.4535, provided by each law enforcement agency that employs the
16 officer.

17 (b) The commission shall make available to a law enforcement
18 agency on request any relevant information maintained in the
19 database for purposes of Sections 1701.303 and 1701.451(a).

20 (c) On request of an officer, the commission shall provide
21 to the officer free of charge any information maintained in the
22 database regarding the officer, including any information relating
23 to an investigation of misconduct by a law enforcement agency under
24 the policy described by Section 1701.4522.

25 (d) Except as provided by Subsections (b) and (c),
26 information maintained in the database established under this
27 section is confidential and not subject to disclosure under Chapter

1 552, Government Code.

2 Sec. 1701.169. LAW ENFORCEMENT DATABASE. The commission
3 shall designate one or more national law enforcement databases that
4 a law enforcement agency must access to complete the preemployment
5 background check required under Sections 1701.303(a), 1701.3035,
6 and 1701.451(a). A database designated under this section must be
7 as comprehensive as possible.

8 Sec. 1701.170. SUBMISSION OF REVOKED LICENSE TO NATIONAL
9 DATABASE. (a) The commission shall designate for purposes of this
10 section a national database that serves as a registry for the
11 revocation of officer licenses in several jurisdictions based on
12 misconduct committed by the officer.

13 (b) The commission shall submit to the designated database
14 information necessary to create a record in the database for each
15 officer license the commission revokes under Section 1701.501,
16 1701.502, or 1701.503.

17 SECTION 7. Section 1701.202, Occupations Code, is amended
18 by amending Subsection (b) and adding Subsection (d) to read as
19 follows:

20 (b) Except as provided by Subsection (d), on [On] request, a
21 license holder is entitled to [may] obtain information regarding a
22 complaint made against the license holder under this chapter,
23 including a complete copy of the complaint file. On receipt of a
24 request under this subsection, the commission shall provide the
25 requested information in a timely manner to allow the license
26 holder time to respond to the complaint.

27 (d) The commission is not required to provide the identity

1 of any nontestifying complainant in response to a request under
2 Subsection (b).

3 SECTION 8. Section 1701.203(c), Occupations Code, is
4 amended to read as follows:

5 (c) The commission shall periodically notify the complaint
6 parties [~~to the complaint~~] of the status of the complaint until
7 final disposition unless the notice would jeopardize an
8 investigation.

9 SECTION 9. Subchapter E, Chapter 1701, Occupations Code, is
10 amended by adding Section 1701.205 to read as follows:

11 Sec. 1701.205. OFFICER PERSONAL SERVICE REPORTS. (a) The
12 commission shall establish a public database containing personal
13 service reports of each officer licensed under this chapter. A
14 service report must:

15 (1) include the information required by Subsection
16 (b); and

17 (2) be compiled in a format that makes the information
18 readily available to the public.

19 (b) Except as otherwise provided by this section, a service
20 report must contain the following information with respect to each
21 officer:

22 (1) the date the officer completed the basic training
23 course;

24 (2) whether the officer is in compliance with
25 continuing education requirements and the continuing education
26 courses completed;

27 (3) the total hours of training the officer has

1 completed; and

2 (4) the date the officer's license was issued.

3 (c) The commission shall adopt rules to exclude from the
4 database personal service reports for certain officers if including
5 the service report would create a safety risk for an undercover
6 officer or an officer involved in an active sensitive operation.
7 Rules adopted under this section must allow an officer described by
8 this subsection or the law enforcement agency employing the officer
9 to request, in a manner prescribed by the commission, the service
10 report of the officer to be excluded from the database. A request
11 to exclude an officer's personal service report under this section
12 is confidential and not subject to disclosure under Chapter 552,
13 Government Code.

14 (d) The commission shall:

15 (1) require a person accessing information in the
16 database to register as a user before accessing the database; and

17 (2) track each user's activity on the database,
18 including the personal service reports the user accesses.

19 (e) The user information collected and maintained by the
20 commission under Subsection (d) is confidential and not subject to
21 disclosure under Chapter 552, Government Code, except as required
22 to comply with a court order.

23 SECTION 10. Section 1701.253, Occupations Code, is amended
24 by adding Subsection (a-1) and amending Subsections (g), (h), (i),
25 (j), (l), (m), (o), and (p) to read as follows:

26 (a-1) The commission by rule shall establish deadlines for
27 an officer to complete any minimum curriculum requirements that are

1 not completed as part of the officer's basic training course.

2 (g) As part of the minimum curriculum requirements, the
3 commission shall establish a statewide comprehensive education and
4 training program on asset forfeiture under Chapter 59, Code of
5 Criminal Procedure, for officers licensed under this chapter. [~~An
6 officer shall complete a program established under this subsection
7 not later than the second anniversary of the date the officer is
8 licensed under this chapter or the date the officer applies for an
9 intermediate proficiency certificate, whichever date is earlier.~~]

10 (h) As part of the minimum curriculum requirements, the
11 commission shall establish a statewide comprehensive education and
12 training program on racial profiling for officers licensed under
13 this chapter. [~~An officer shall complete a program established
14 under this subsection not later than the second anniversary of the
15 date the officer is licensed under this chapter or the date the
16 officer applies for an intermediate proficiency certificate,
17 whichever date is earlier.~~]

18 (i) As part of the minimum curriculum requirements, the
19 commission shall establish a statewide comprehensive education and
20 training program on identity theft under Section 32.51, Penal Code,
21 for officers licensed under this chapter. [~~An officer shall
22 complete a program established under this subsection not later than
23 the second anniversary of the date the officer is licensed under
24 this chapter or the date the officer applies for an intermediate
25 proficiency certificate, whichever date is earlier.~~]

26 (j) As part of the minimum curriculum requirements, the
27 commission shall require an officer to complete a 40-hour statewide

1 education and training program on de-escalation and crisis
2 intervention techniques to facilitate interaction with persons
3 with mental impairments. [~~An officer shall complete the program
4 not later than the second anniversary of the date the officer is
5 licensed under this chapter or the date the officer applies for an
6 intermediate proficiency certificate, whichever date is earlier.~~]
7 An officer may not satisfy the requirements of this subsection or
8 Section 1701.402(g) by taking an online course on de-escalation and
9 crisis intervention techniques to facilitate interaction with
10 persons with mental impairments.

11 (l) As part of the minimum curriculum requirements, the
12 commission shall require an officer licensed by the commission on
13 or after January 1, 2016, to complete a canine encounter training
14 program established by the commission under Section 1701.261. [~~An
15 officer shall complete the program not later than the second
16 anniversary of the date the officer is licensed under this chapter
17 unless the officer completes the program as part of the officer's
18 basic training course.~~]

19 (m) As part of the minimum curriculum requirements, the
20 commission shall establish a statewide comprehensive education and
21 training program on procedures for interacting with drivers who are
22 deaf or hard of hearing, as defined by Section 81.001, Human
23 Resources Code, including identifying specialty license plates
24 issued to individuals who are deaf or hard of hearing under Section
25 504.204, Transportation Code. [~~An officer shall complete a program
26 established under this subsection not later than the second
27 anniversary of the date the officer is licensed under this chapter~~

1 ~~or the date the officer applies for an intermediate proficiency~~
2 ~~certificate, whichever date is earlier.]~~

3 (o) As part of the minimum curriculum requirements, the
4 commission shall require an officer to complete the civilian
5 interaction training program developed under Section 1701.268. [~~An~~
6 ~~officer shall complete the program not later than the second~~
7 ~~anniversary of the date the officer is licensed under this chapter~~
8 ~~unless the officer completes the program as part of the officer's~~
9 ~~basic training course.]~~

10 (p) As part of the minimum curriculum requirements, the
11 commission shall require an officer to complete the basic education
12 and training program on the trafficking of persons developed under
13 Section 1701.258(a). [~~An officer shall complete the program not~~
14 ~~later than the second anniversary of the date the officer is~~
15 ~~licensed under this chapter unless the officer completes the~~
16 ~~program as part of the officer's basic training course.]~~

17 SECTION 11. Section 1701.303, Occupations Code, is amended
18 to read as follows:

19 Sec. 1701.303. LICENSE APPLICATION; DUTIES OF APPOINTING
20 ENTITY. (a) Before a [A] law enforcement agency or governmental
21 entity [that] hires a person for whom a license is sought, the
22 agency or entity must:

23 (1) review any information relating to the person
24 available:

25 (A) in a database established under Section
26 1701.168;

27 (B) in a database designated under Section

1 1701.169; and

2 (C) if applicable, in a file provided to the
3 commission under Section 1701.3035; and

4 (2) file an application with the commission as
5 provided by commission rule.

6 (b) A person who appoints an officer or county jailer
7 licensed by the commission shall notify the commission not later
8 than the 30th day after the date of the appointment. If the person
9 appoints an individual who previously served as an officer or
10 county jailer and the appointment occurs after the 180th day after
11 the last date of service as an officer or county jailer, the person
12 must have on file for the license holder [~~officer or county jailer~~]
13 in a form readily accessible to the commission:

14 (1) new criminal history record information;

15 (2) a new declaration of psychological and emotional
16 health and lack of drug dependency or illegal drug use; and

17 (3) new documentation that the license holder has been
18 fingerprinted and subjected to a search of local, state, and
19 national records and fingerprint files to disclose any criminal
20 record of the license holder [~~two completed fingerprint cards~~].

21 (c) A person who appoints or employs a telecommunicator
22 licensed by the commission shall notify the commission not later
23 than the 30th day after the date of the appointment or employment.
24 If the person appoints or employs an individual who previously
25 served as a telecommunicator and the appointment or employment
26 occurs after the 180th day after the last date of service as a
27 telecommunicator, the person must have on file in a form readily

1 accessible to the commission:

- 2 (1) new criminal history record information; and
- 3 (2) new documentation that the license holder has been
- 4 fingerprinted and subjected to a search of local, state, and
- 5 national records and fingerprint files to disclose any criminal
- 6 record of the license holder [~~two completed fingerprint cards~~].

7 SECTION 12. Subchapter G, Chapter 1701, Occupations Code,
8 is amended by adding Sections 1701.3035 and 1701.3135 to read as
9 follows:

10 Sec. 1701.3035. OUT-OF-STATE LICENSE HOLDERS. (a) Before
11 issuing an officer license under this chapter to an applicant who
12 holds or previously held an equivalent license in another state,
13 the commission must request from the licensing authority of the
14 other state the personnel file and any other relevant record
15 regarding the applicant.

16 (b) An applicant for an officer license may not be denied a
17 license for the sole reason that the licensing authority of another
18 state did not provide a record requested by the commission under
19 this section.

20 Sec. 1701.3135. DISQUALIFICATION: REVOCATION OR SUSPENSION
21 IN ANOTHER STATE. A person is disqualified to be an officer, and
22 the commission may not issue an officer license to the person, if
23 the person has been issued a license or other authorization to act
24 as an officer in another state and, at the time the person applies
25 for a license in this state, that license or authorization is
26 revoked or suspended for a reason that would be grounds for the
27 commission to revoke or suspend a license in this state.

1 SECTION 13. Section 1701.404(b), Occupations Code, is
2 amended to read as follows:

3 (b) The commission may certify a sheriff, sheriff's deputy,
4 constable, other peace officer, county jailer, or justice of the
5 peace as a special officer for offenders with mental impairments if
6 the person:

7 (1) completes a training course in emergency first aid
8 and lifesaving techniques approved by the commission;

9 (2) completes a training course administered by the
10 commission on mental health issues and offenders with mental
11 impairments; and

12 (3) passes an examination administered by the
13 commission that is designed to test the person's:

14 (A) knowledge and recognition of the
15 characteristics and symptoms of mental illness, intellectual
16 disabilities [~~mental retardation~~], and developmental [~~mental~~]
17 disabilities; and

18 (B) knowledge of mental health crisis
19 intervention strategies for people with mental impairments.

20 SECTION 14. Section 1701.451(a), Occupations Code, is
21 amended to read as follows:

22 (a) Before a law enforcement agency may hire a person
23 licensed under this chapter, the agency must, on a form and in the
24 manner prescribed by the commission:

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

1 (2) request from the commission and any other
2 applicable person information required to be reviewed under this
3 section; and

4 (3) submit to the commission confirmation that the
5 agency, to the best of the agency's ability before hiring the
6 person:

7 (A) contacted each entity or individual
8 necessary to obtain the information required to be reviewed under
9 this section; and

10 (B) except as provided by Subsection (b),
11 obtained and reviewed as related to the person, as applicable:

12 (i) personnel files, as described by
13 Section 1701.4535, and other employee records from each previous
14 law enforcement agency employer, including the employment
15 application submitted to the previous employer;

16 (ii) employment termination reports and
17 misconduct investigation reports maintained by the commission
18 under this subchapter;

19 (iii) service records maintained by the
20 commission;

21 (iv) proof that the person meets the
22 minimum qualifications for enrollment in a training program under
23 Section 1701.251(a);

24 (v) a military veteran's United States
25 Department of Defense Form DD-214 or other military discharge
26 record;

27 (vi) criminal history record information;

1 (vii) information on pending warrants as
2 available through the Texas Crime Information Center and National
3 Crime Information Center;

4 (viii) evidence of financial
5 responsibility as required by Section 601.051, Transportation
6 Code;

7 (ix) a driving record from the Department
8 of Public Safety;

9 (x) proof of United States citizenship;

10 [~~and~~]

11 (xi) information on the person's background
12 from at least three personal references and at least two
13 professional references; and

14 (xii) information on the person's law
15 enforcement background as available through a database designated
16 by the commission under Section 1701.169 and, if applicable, a file
17 or record obtained by the commission under Section 1701.3035.

18 SECTION 15. Subchapter J, Chapter 1701, Occupations Code,
19 is amended by adding Section 1701.4522 to read as follows:

20 Sec. 1701.4522. MISCONDUCT INVESTIGATION AND HIRING
21 PROCEDURES. (a) The commission shall adopt a model policy
22 establishing procedures applicable to a law enforcement agency:

23 (1) investigating alleged misconduct by a license
24 holder employed by the agency; and

25 (2) hiring a license holder.

26 (b) The policy adopted under this section must:

27 (1) require a law enforcement agency to:

1 (A) initiate an appropriate administrative or
2 criminal investigation into alleged misconduct of a license holder
3 employed by the law enforcement agency at the time the agency
4 becomes aware of the alleged misconduct;

5 (B) complete the investigation described by
6 Paragraph (A) in a timely manner, as prescribed by the commission;

7 (C) report an investigation into alleged
8 criminal misconduct for which criminal charges are filed against
9 the license holder to the commission in a timely manner after the
10 investigation is completed;

11 (D) complete an administrative investigation of
12 alleged misconduct and prepare and submit to the commission a
13 summary report on the investigation, including the disposition of
14 the investigation and any informational findings, in a format
15 prescribed by the commission, in a timely manner but not later than
16 the 30th day after the date of the license holder's separation from
17 the agency, if applicable;

18 (E) include documentation of the completed
19 investigation in the personnel file, as described by Section
20 1701.4535, of the license holder maintained by the agency; and

21 (F) submit to the commission each report of a
22 completed investigation;

23 (2) provide that an investigation into the alleged
24 misconduct of a license holder may not be terminated by the
25 resignation, retirement, termination, death, or separation from
26 employment of the license holder;

27 (3) specify that a license holder under investigation

1 for misconduct is entitled to any internal due process procedures
2 provided by the investigating agency to contest the investigation
3 or completed report;

4 (4) require a law enforcement agency to request and
5 review any information regarding an applicant for employment
6 maintained by the commission in the licensing status database
7 established under Section 1701.168 as part of the preemployment
8 procedures required under Section 1701.451(a);

9 (5) establish a provisional hiring period of at least
10 45 days for any license holder employed by a law enforcement agency
11 and allow a law enforcement agency to terminate the employment of
12 the license holder if information relating to an investigation of
13 alleged misconduct by the license holder is made available to the
14 agency by the commission as part of the preemployment procedures
15 required under Section 1701.451(a) within the provisional period;
16 and

17 (6) take into account the variation in size, function,
18 and jurisdiction of law enforcement agencies in this state.

19 (c) A law enforcement agency shall adopt the model policy
20 described by Subsection (a) or a substantively similar policy. A
21 policy adopted by a law enforcement agency under this section must
22 be submitted to the commission and the commission shall maintain a
23 copy of the policy.

24 (d) The commission shall maintain each report received
25 under a policy adopted under this section as part of the license
26 holder's record in the licensing status database established under
27 Section 1701.168.

1 (e) The commission shall notify a law enforcement agency
2 seeking to appoint a license holder of a completed investigation
3 report submitted to the commission with respect to the license
4 holder not later than the fifth business day after the date the
5 commission receives the report.

6 SECTION 16. Section 1701.453, Occupations Code, is amended
7 to read as follows:

8 Sec. 1701.453. MAINTENANCE OF REPORTS [~~AND STATEMENTS~~].
9 The commission shall maintain a copy of each report [~~and statement~~]
10 submitted to the commission under this subchapter until at least
11 the 10th anniversary of the date on which the report [~~or statement~~]
12 is submitted.

13 SECTION 17. Subchapter J, Chapter 1701, Occupations Code,
14 is amended by adding Section 1701.4535 to read as follows:

15 Sec. 1701.4535. PERSONNEL FILE. (a) The commission shall
16 adopt a model policy regarding personnel files maintained with
17 respect to a license holder. The policy must:

18 (1) require the head of a law enforcement agency or the
19 head's designee to maintain a personnel file on each license holder
20 employed by the agency that contains any letter, memorandum, or
21 document relating to:

22 (A) a commendation, congratulation, or honor
23 bestowed on the license holder by a member of the public or by the
24 employing agency for an action, duty, or activity that relates to
25 the license holder's official duties;

26 (B) any misconduct by the license holder if the
27 letter, memorandum, or document is from the employing agency and

1 the misconduct resulted in disciplinary action by the employing
2 agency; and

3 (C) the periodic evaluation of the license holder
4 by a supervisor; and

5 (2) provide that:

6 (A) a letter, memorandum, or document relating to
7 alleged misconduct by the license holder may not be placed in the
8 license holder's personnel file if the employing agency determines
9 that there is insufficient evidence to sustain the charge of
10 misconduct;

11 (B) if a negative letter, memorandum, document,
12 or other notation of negative impact is included in a license
13 holder's personnel file:

14 (i) the agency head or the head's designee
15 shall, not later than the 30th day after the date of the inclusion,
16 notify the affected license holder by certified mail; and

17 (ii) the license holder may, on or before
18 the 30th day after the date of receipt of the notification, file a
19 written response to the negative letter, memorandum, document, or
20 other notation;

21 (C) information contained in a license holder's
22 personnel file may not be released without the license holder's
23 written permission, unless the release is required by law;

24 (D) a license holder is entitled, on request, to
25 a copy of any letter, memorandum, or document placed in the license
26 holder's personnel file; and

27 (E) an employing agency may charge the license

1 holder a reasonable fee not to exceed the actual cost of any copies
2 described by Paragraph (D).

3 (b) A law enforcement agency shall adopt the model policy
4 described by Subsection (a) or a substantively similar policy. A
5 policy adopted by a law enforcement agency under this section must
6 be submitted to the commission, and the commission shall maintain a
7 copy of the policy.

8 (c) Except as provided by Subsections (d) and (e), a law
9 enforcement agency may not release any information contained in a
10 license holder's personnel file to any other agency or person
11 requesting information relating to the license holder unless
12 required by law. The agency shall refer the person or agency
13 requesting the information to the agency head or the head's
14 designee.

15 (d) A law enforcement agency shall provide a license
16 holder's personnel file to the commission:

17 (1) not later than the 30th day after the date the
18 license holder separates from the agency; or

19 (2) on request by the commission as part of an ongoing
20 investigation relating to the license holder.

21 (e) As provided by Section 1701.451, a law enforcement
22 agency hiring a license holder is entitled to view the contents of
23 the license holder's personnel file.

24 SECTION 18. Section 1701.456(a), Occupations Code, is
25 amended to read as follows:

26 (a) The commission is not liable for civil damages for
27 providing information contained in a report [~~or statement~~]

1 maintained by the commission under this subchapter if the
2 commission released the information as provided by this subchapter.

3 SECTION 19. The heading to Subchapter K, Chapter 1701,
4 Occupations Code, is amended to read as follows:

5 SUBCHAPTER K. DISCIPLINARY GROUNDS AND PROCEDURES

6 SECTION 20. Section 1701.501, Occupations Code, is amended
7 by adding Subsection (a-1) to read as follows:

8 (a-1) Except with respect to an officer elected under the
9 Texas Constitution, the commission shall revoke or suspend a law
10 enforcement agency's authority to employ a license holder, place on
11 probation an agency whose authority to employ a license holder has
12 been suspended, or reprimand a law enforcement agency for a
13 violation described by Subsection (a).

14 SECTION 21. Subchapter K, Chapter 1701, Occupations Code,
15 is amended by adding Section 1701.5011 to read as follows:

16 Sec. 1701.5011. EMERGENCY SUSPENSION. (a) The commission
17 shall adopt rules specifying the circumstances under which the
18 commission may issue an emergency order, without a hearing,
19 suspending a person's license for a period not to exceed 90 days
20 after determining that the person constitutes an imminent threat to
21 the public health, safety, or welfare.

22 (b) An order suspending a license under this section must
23 state the length of the suspension in the order.

24 (c) If an emergency order is issued without a hearing under
25 this section, the commission shall, not later than the 10th day
26 after the date the order was issued, set the time and place for a
27 hearing on the order. The hearing must be conducted as soon as

1 practicable. A hearing under this section to affirm, modify, or set
2 aside the emergency order shall be conducted by the State Office of
3 Administrative Hearings. The order shall be affirmed to the extent
4 that good cause existed to issue the order.

5 (d) The commission by rule may prescribe procedures for the
6 determination and appeal of an emergency order issued under this
7 section, including a rule allowing the commission to affirm,
8 modify, or set aside a decision made by the State Office of
9 Administrative Hearings under Subsection (c).

10 (e) A proceeding under this section is a contested case
11 under Chapter 2001, Government Code.

12 SECTION 22. The following provisions of the Occupations
13 Code are repealed:

- 14 (1) Sections 1701.452(b) and (c);
- 15 (2) Section 1701.4521; and
- 16 (3) Section 1701.4525.

17 SECTION 23. (a) Except as provided by Subsection (b) of
18 this section, Section 1701.059, Occupations Code, as amended by
19 this Act, applies to a member of the Texas Commission on Law
20 Enforcement appointed before, on, or after the effective date of
21 this Act.

22 (b) A member of the Texas Commission on Law Enforcement who,
23 before the effective date of this Act, completed the training
24 program required by Section 1701.059, Occupations Code, as that law
25 existed before the effective date of this Act, is only required to
26 complete additional training on the subjects added by this Act to
27 the training program required by Section 1701.059, Occupations

1 Code. A commission member described by this subsection may not
2 vote, deliberate, or be counted as a member in attendance at a
3 meeting of the commission held on or after December 1, 2023, until
4 the member completes the additional training.

5 SECTION 24. (a) Not later than March 1, 2024, the Texas
6 Commission on Law Enforcement shall:

7 (1) adopt rules and update forms as necessary to
8 implement the changes in law made by this Act to Chapter 1701,
9 Occupations Code;

10 (2) adopt the model policies required by Sections
11 1701.167, 1701.4522, and 1701.4535, Occupations Code, as added by
12 this Act;

13 (3) establish the licensing status database as
14 required by Section 1701.168, Occupations Code, as added by this
15 Act;

16 (4) designate the databases required by Sections
17 1701.169 and 1701.170, Occupations Code, as added by this Act; and

18 (5) establish a date by which each law enforcement
19 agency in this state shall adopt the policies required by Sections
20 1701.167, 1701.4522, and 1701.4535, Occupations Code, as added by
21 this Act.

22 (b) Not later than September 1, 2024, the Texas Commission
23 on Law Enforcement shall establish the database containing officer
24 personal service reports as required by Section 1701.205,
25 Occupations Code, as added by this Act.

26 SECTION 25. Sections 1701.303 and 1701.451(a), Occupations
27 Code, as amended by this Act, and Section 1701.3035, Occupations

1 Code, as added by this Act, apply only with respect to a person
2 hired on or after March 1, 2024. A person hired before March 1,
3 2024, is governed by the law in effect immediately before the
4 effective date of this Act, and the former law is continued in
5 effect for that purpose.

6 SECTION 26. The changes in law made by this Act to
7 Subchapter J, Chapter 1701, Occupations Code, apply only to a
8 report required to be submitted under Section 1701.452, Occupations
9 Code, as amended by this Act, regarding a separation of a license
10 holder that occurs on or after March 1, 2024. A separation that
11 occurs before March 1, 2024, is governed by the law in effect
12 immediately before the effective date of this Act, and the former
13 law is continued in effect for that purpose.

14 SECTION 27. Section 1701.3135, Occupations Code, as added
15 by this Act, applies only to an application for an officer license
16 submitted under Chapter 1701, Occupations Code, on or after the
17 effective date of this Act. An application submitted before the
18 effective date of this Act is governed by the law in effect on the
19 date the application was submitted, and the former law is continued
20 in effect for that purpose.

21 SECTION 28. Section 1701.501(a-1), Occupations Code, as
22 added by this Act, applies only to conduct that occurs on or after
23 the effective date of this Act. Conduct that occurs before the
24 effective date of this Act is governed by the law in effect on the
25 date the conduct occurred, and the former law is continued in effect
26 for that purpose.

27 SECTION 29. This Act takes effect September 1, 2023.

S.B. No. 1445

President of the Senate

Speaker of the House

I hereby certify that S.B. No. 1445 passed the Senate on April 18, 2023, by the following vote: Yeas 31, Nays 0; May 22, 2023, Senate refused to concur in House amendments and requested appointment of Conference Committee; May 23, 2023, House granted request of the Senate; May 27, 2023, Senate adopted Conference Committee Report by the following vote: Yeas 31, Nays 0.

Secretary of the Senate

I hereby certify that S.B. No. 1445 passed the House, with amendments, on May 19, 2023, by the following vote: Yeas 143, Nays 0, one present not voting; May 23, 2023, House granted request of the Senate for appointment of Conference Committee; May 28, 2023, House adopted Conference Committee Report by the following vote: Yeas 138, Nays 1, two present not voting.

Chief Clerk of the House

Approved:

Date

Governor