

By: Hefner, Ashby, Cook

H.B. No. 15

A BILL TO BE ENTITLED

AN ACT

relating to certain files maintained by a law enforcement agency regarding certain employees of the agency.

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

SECTION 1. Subchapter J, Chapter 1701, Occupations Code, is amended by adding Section 1701.45351 to read as follows:

Sec. 1701.45351. DEPARTMENT FILE. (a) In this section, "department file" means a file a law enforcement agency maintains for agency use for each license holder the agency employs.

(b) The head of a law enforcement agency or the head's designee shall maintain a department file on each license holder the agency employs.

(c) A department file must contain any letter, memorandum, or document relating to the license holder not included in a personnel file maintained as required under a policy adopted under Section 1701.4535, including any letter, memorandum, or document relating to alleged license holder misconduct for which the agency determines there is insufficient evidence to sustain the charge of misconduct.

(d) In accordance with Section 1701.451, a law enforcement agency hiring a license holder is entitled to review the contents of the license holder's department file maintained by each previous law enforcement agency employer.

(e) A law enforcement agency shall provide the contents from

a license holder's department file to the commission in accordance with:

(1) the law enforcement agency's policy adopted in compliance with Section 1701.4522(b)(1)(D); or

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

(f) A department file maintained under this section is subject to disclosure as required by law, including Chapter 2B and Article 39.14, Code of Criminal Procedure, and Section 511.021, Government Code.

(f-1) On completion of an investigation relating to alleged license holder misconduct, a law enforcement agency shall permit the following individuals to view any letter, memorandum, or document placed in the license holder's department file relating to the alleged misconduct:

(1) the individual who submitted the complaint of alleged misconduct that was the subject of the investigation;

(2) any individual to whom the alleged misconduct that was the subject of the investigation was directed; or

(3) the immediate family of an individual described by Subdivision (2) if the individual is now deceased.

(f-2) A person permitted to view a letter, memorandum, or document under Subsection (f-1) may not duplicate, record, capture, or otherwise memorialize the letter, memorandum, or document. A permitted viewing of a letter, memorandum, or document under Subsection (f-1) is not considered to be a release of public information for purposes of Chapter 552, Government Code.

1 (g) Except as provided by this subsection and Subsections
2 (d), (e), (f), (f-1), and (f-2), a law enforcement agency may not
3 release any information contained in a license holder's department
4 file to any other agency or person requesting information relating
5 to the license holder. The agency shall refer the person or agency
6 requesting the information to the agency head or the head's
7 designee. Except for information, records, or notations described
8 by Section 552.108(c-1), Government Code, that are contained in a
9 license holder's department file, a department file maintained
10 under this section is confidential and not subject to disclosure
11 under Chapter 552, Government Code.

12 SECTION 2. This Act takes effect on the 91st day after the
13 last day of the legislative session.