

By: Moreno of El Paso

H.B. No. 279

A BILL TO BE ENTITLED

AN ACT

relating to the establishment in certain municipalities of boards to receive and act on complaints of police misconduct.

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

SECTION 1. Subtitle A, Title 5, Local Government Code, is amended by adding Chapter 145 to read as follows:

CHAPTER 145. COMMUNITY RELATIONS BOARDS

IN CERTAIN MUNICIPALITIES

Sec. 145.001. COMMUNITY RELATIONS BOARD. The governing body of a municipality with a population of more than 200,000 may establish a community relations board as prescribed by this chapter to receive and dispose of complaints filed against police officers as provided by this chapter.

Sec. 145.002. COMPOSITION OF BOARD. (a) The community relations board is composed of seven municipal residents appointed by the municipality's governing body. The board must include:

(1) a person who is an officer of at least the rank of captain or its equivalent in the municipality's police department;

(2) an attorney licensed to practice law in this state; and

(3) a physician licensed by this state.

(b) The governing body of a municipality that establishes a community relations board under this chapter shall appoint persons to the board so that the racial and ethnic backgrounds of the

1 various board members reflect the proportional representation of
2 the various racial and ethnic groups in the municipality's
3 population.

4 (c) Except for the initial members, members of the community
5 relations board serve two-year terms that expire on February 1 of
6 each odd-numbered year. The initial members serve terms expiring
7 on the first February 1 of an odd-numbered year following the date
8 the members qualify for office. Board members may not receive
9 compensation for service on the board but may be reimbursed for
10 actual expenses incurred on board business as provided by the
11 governing body of the municipality.

12 Sec. 145.003. APPELLATE JURISDICTION OF BOARD. (a) In a
13 municipality that has an internal affairs division or similar body
14 in its police department that receives complaints within the
15 community relations board's jurisdiction, a complaint must be filed
16 originally with the internal affairs division or similar body. A
17 person who is dissatisfied with the department's disposition of the
18 complaint may appeal to the board.

19 (b) After final disposition of a complaint by an internal
20 affairs division or similar body, the department shall give the
21 person who filed the complaint written notice that:

22 (1) the complaint has been resolved and the manner in
23 which it was resolved;

24 (2) the person may appeal to the community relations
25 board if the person is dissatisfied with the department's
26 disposition of the matter; and

27 (3) the person must file any appeal with the board

1 within the period provided by Subsection (c).

2 (c) An appeal under Subsection (a) must be filed not later
3 than the 30th day after the date the person receives written notice
4 that the internal affairs division or similar body has made a final
5 disposition of the matter. In an appeal under this section, review
6 by the community relations board is de novo. However, the action
7 taken by the department is not suspended by the appeal.

8 Sec. 145.004. ORIGINAL JURISDICTION OF BOARD. (a) In a
9 municipality that does not have an internal affairs division or
10 similar body in its police department and in which a community
11 relations board has been established under this chapter, a person
12 who believes that a police officer of the municipality used
13 excessive force or abused the officer's authority in the discharge
14 or purported discharge of the officer's duties may file a written
15 complaint with the board. The complaint must be filed not later
16 than the 90th day after the date the act that is the subject of the
17 complaint occurred.

18 (b) The community relations board shall send a copy of the
19 complaint to the accused officer as soon as practicable after the
20 complaint is received. The officer may file a written statement in
21 the officer's defense.

22 (c) After a complaint is filed with the community relations
23 board, the board shall give each party written notice that:

24 (1) the party is entitled to a hearing on the
25 complaint; and

26 (2) any request for a hearing must be made to the board
27 not later than the ninth day after the date the party receives the

1 notice required by this subsection.

2 (d) The accused officer or the person who filed the
3 complaint is entitled to a hearing on the complaint if the officer
4 or the person makes a timely request for a hearing. A request from a
5 party is timely if it is made within the period required by
6 Subsection (c). The community relations board at any time may order
7 a hearing on its own motion.

8 (e) The community relations board shall notify the parties
9 of the date, time, and place of a hearing not later than the 14th day
10 before the date the hearing is held.

11 Sec. 145.005. CONDUCT OF PROCEEDINGS. (a) A party may be
12 represented by counsel in any part of a proceeding held under this
13 chapter.

14 (b) The community relations board shall conduct the
15 proceedings as informally as possible, consistent with the
16 principles of due process of law.

17 (c) On hearing a complaint or, if no hearing is held, on
18 examining all evidence submitted to it, the community relations
19 board shall decide on the merits of the complaint and issue a
20 written opinion. The board may:

21 (1) order the suspension, demotion, or discharge of
22 the police officer;

23 (2) issue a reprimand; or

24 (3) exonerate the officer of the charge.

25 (d) An opinion of the community relations board must be
26 signed by those members of the board who support it.

27 Sec. 145.006. BOARD MAY ADOPT RULES. The community

1 relations board may adopt rules to govern its proceedings under
2 this chapter.

3 Sec. 145.007. EFFECT OF CIVIL SERVICE COMMISSION DECISION.
4 If a municipality has a civil service commission, and that
5 commission issues a decision that is inconsistent with a community
6 relations board's disposition of a complaint based on the same act,
7 the board's decision prevails.

8 SECTION 2. This Act takes effect September 1, 2003, and
9 applies only to an act committed or alleged to have been committed
10 by a law enforcement officer on or after that date.