

By: Talton

H.B. No. 1189

A BILL TO BE ENTITLED

AN ACT

relating to alternative dispute resolution procedures in certain police departments.

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

SECTION 1. Subchapter G, Chapter 143, Local Government Code, is amended by adding Section 143.135 to read as follows:

Sec. 143.135. MEDIATION. (a) In this section, "mediation" has the meaning assigned by Section 154.023, Civil Practice and Remedies Code.

(b) The head of the police department may develop and implement an alternative dispute resolution program to refer certain disputes regarding police officers to mediation.

(c) If a dispute is referred to mediation under this section, the time limitations and deadlines under Sections 143.1015, 143.1016, 143.117, 143.118, 143.119, 143.120, and 143.127-143.134 are tolled until the earliest of:

(1) the date the parties reach a settlement and execute a written agreement disposing of the dispute;

(2) the date the mediator refers the dispute to another appeals or grievance procedure under this subchapter; or

(3) the 60th day after the date the dispute was referred to mediation.

(d) The conduct and demeanor of the mediator and the parties to the dispute during the course of the mediation are confidential.

1 A letter, memorandum, document, note, or other oral or written
2 communication that is relevant to the dispute and made between the
3 mediator and the parties to the dispute or between the parties to
4 the dispute during the course of the mediation procedure:

5 (1) is confidential and may not be disclosed unless
6 all of the parties to the mediation agree to the disclosure in
7 writing; and

8 (2) is admissible and discoverable in a separate
9 proceeding only if the letter, memorandum, document, note, or other
10 communication is admissible and discoverable independent of the
11 mediation.

12 (e) A mediator may not be required to testify in a
13 proceeding concerning information relating to or arising out of the
14 mediation.

15 (f) Subsection (d) does not apply to a final written
16 agreement to which the police department or municipality is a
17 signatory that is reached as a result of a mediation procedure
18 conducted under this section. Information in the final written
19 agreement is subject to required disclosure, is excepted from
20 required disclosure, or is confidential in accordance with Chapter
21 552, Government Code, and other law.

22 (g) If this section conflicts with other legal requirements
23 for disclosure of communications or materials, the issue of
24 confidentiality may be presented to a district court for a judicial
25 district in which the majority of the territory of the municipality
26 is located to determine, in camera, whether the facts,
27 circumstances, and context of the communications or materials

1 sought to be disclosed warrant a protective order of the court or
2 whether the communications or materials are subject to disclosure.

3 (h) Except to the extent of any conflict with this section,
4 Chapter 154, Civil Practice and Remedies Code, and police
5 department rules apply to a mediation conducted under this section.

6 (i) Except to the extent of any conflict with this section,
7 Section 2009.054, Government Code, applies to the communications,
8 records, conduct, and demeanor of the mediator and the parties.

9 (j) Section 143.1014 does not apply to a meeting or hearing
10 conducted under this section.

11 SECTION 2. This Act takes effect September 1, 2003.