

BILL ANALYSIS

C.S.H.B. 2677
By: Driver
Law Enforcement
Committee Report (Substituted)

BACKGROUND AND PURPOSE

The bill addresses the issue of "Gypsy Cops," those police officers who are able to move from agency to agency in spite of poor performance and unethical behavior. This problem frequently occurs because a poor performing officer's resignation is negotiated, resulting in partial or inadequate documentation of the exact circumstances of an officer's separation. In turn, many agencies do not receive adequate background information in screening out problematic officers. The result is a system that allows Gypsy Cops to take advantage of small and rural departments, which are unable to complete deep background checks due to limited resources.

The bill provides a solution to prevent "Gypsy Cops" from obtaining future positions in law enforcement under false pretenses. The bill requires that chief administrators report the circumstances surrounding the separation of an officer through a document called the F-5, currently provided to Texas Commission on Law Enforcement Officer Standards and Education (TCLEOSE) immediately upon separation. In order to insure the effectiveness of the F-5, the bill clearly defines the various terms used to describe the circumstances surrounding an officer's separation.

The bill not only tightens existing loopholes in the termination process but also tightens the responsibilities on hiring departments. The bill requires administrators to send a signed document to TCLEOSE, verifying that they have obtained a copy of the officer's F-5, performed a criminal background check and contacted the candidate's previous law enforcement employers. In sum, House Bill 2677 protects law enforcement agencies, the many good standing officers who serve our communities and the citizens of the State of Texas from substandard or even dangerous officers.

RULEMAKING AUTHORITY

It is the committee's opinion that rulemaking authority is expressly granted to the Texas Commission on Law Enforcement Officer Standards and Education (TCLEOSE) in SECTION 3 of this bill.

ANALYSIS

C.S.H.B. 2677 amends Section 1701.451, Occupations Code, as follows:

- Amends the title of Section 1701.451.
- Amends subsection (a) to require the head of a law enforcement agency or the agency head's designee, prior to hiring a peace officer, to make a written request of the commission for any employment termination report on that officer.
- Further amends subsection (a) to require the law enforcement agency to submit to the commission a form, prescribed by the commission, certifying that the agency has conducted a criminal background check on the person, obtained his or her written consent to view the person's employment records, obtained any service or education reports maintained by the commission about that person, and contacted each of the person's prior law enforcement employers.
- Amends subsection (b) to require that a law enforcement agency's written request of the commission for employment termination reports be on the agency's letterhead and signed by the agency head or the agency head's designee.
- Amends subsection (c) to require that the responsible commission employee release records properly requested by a law enforcement agency under this section.

C.S.H.B. 2677 79(R)

- Removes language from this section prohibiting the commission from releasing information beyond whether or not a report exists as well as language prohibiting a law enforcement agency from using information obtained under this section in determining whether or not to hire an officer.

C.S.H.B. 2677 amends Section 1701.452, Occupations Code, as follows:

- Amends subsection (a) to require one of the following designations, explaining the reason for resignation or termination: retired, honorably discharged, dishonorably discharged, generally discharged, killed in the line of duty, died, and disabled. The bill also defines the designations.
- Amends subsection (b) to require the law enforcement agency from which a person resigns or it terminated for reasons other than death shall provide to the person a copy of the report. If the person of subject is deceased, the head of the law enforcement agency on request shall provide a copy of the report to the person's next of kin.
- Adds subsection (c) to require that an employment termination report be submitted each time an officer resigns or is terminated from an agency, and to provide that a report is an official government document.

C.S.H.B. 2677 further amends Chapter 1701 of the Occupation Code by adding Section 1701.4525, as follows:

- Provides that a person who is the subject of an employment termination report, maintained by the commission under this subchapter, may contest information in the report by submitting to the law enforcement agency head and to the commission, a written request for a correction of the report and any evidence contesting the information contained in the report, within 30 days of receiving the report.
- The commission shall allow the head of the law enforcement agency to submit to the commission any evidence rebutting the evidence submitted by the person, who is subject to the report.
- Authorizes the commission to order the head of a law enforcement agency to correct a person's report in a timely manner and to assess an administrative penalty against an agency head that does not make the correction or request a hearing conducted by the State Office of Administrative Hearings in a timely manner.
- Provides that if the commission refuses to order the head of a law enforcement agency to correct the person's report, the person is entitled to a hearing conducted by the State Office of Administrative Hearings, and that the proceeding is a contested case under Chapter 2001, Government Code.
- Grants the commission rulemaking authority for the administration of this section.

C.S.H.B. 2677 amends Section 1701.454 of the Government Code by making conforming changes.

C.S.H.B. 2677 states that the changes in law made by this Act in relation to employment termination reports apply only to an employment termination report under Subchapter J, Chapter 1701, Occupations Code, regarding a resignation or termination that occurs on or after the effective date of this Act. An employment termination report regarding a resignation or termination that occurs before the effective date of this Act, is governed by the law as it existed immediately before the effective date and the law is continued in effect for that purpose.

EFFECTIVE DATE

September 1, 2005

COMPARISON OF ORIGINAL TO SUBSTITUTE

C.S.H.B. 2677 differs from the original bill by requiring that before a law enforcement agency may hire an officer, the agency head or agency head's designee must submit to the commission, confirmation that the agency contacted each of the person's previous law enforcement employers. The original bill required the agency to contact all previous employers.

C.S.H.B. 2677 79(R)

The committee substitute differs from the original bill by limiting the time period in which a person must request an appeal regarding information contained in his or her report to 30 days from receipt of the report.

The committee substitute differs from the original bill by requiring an agency head ordered to correct a person's report, to either make the correction or request a hearing in a timely manner.