

By: Moreno of El Paso

H.B. No. 1197

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 146 to read as follows:

CHAPTER 146. COMMUNITY RELATIONS BOARDS

IN CERTAIN MUNICIPALITIES

Sec. 146.001. 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. 146.002. 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. 146.003. APPELLATE JURISDICTION OF BOARD. (a) In a  
13 municipality in which a community relations board has been  
14 established that also has an internal affairs division or similar  
15 body in its police department that receives complaints that would  
16 otherwise be within the community relations board's original  
17 jurisdiction, a complaint must be filed originally with the  
18 internal affairs division or similar body. A complainant who is  
19 dissatisfied with the department's disposition of the complaint may  
20 appeal to the board.

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

24 (1) the complaint has been resolved and the manner in  
25 which it was resolved;

26 (2) the person may appeal to the community relations  
27 board if the person is dissatisfied with the department's

1 disposition of the matter; and

2 (3) the person must file any appeal with the board  
3 within the period provided by Subsection (c).

4 (c) An appeal must be filed not later than the 30th day after  
5 the date the person receives written notice that the internal  
6 affairs division or similar body has made a final disposition of the  
7 matter. In an appeal under this section, review by the community  
8 relations board is de novo. For purposes of the procedures  
9 prescribed by Section 146.004, other than Section 146.004(a), the  
10 appeal is considered to be the complaint. The action taken by the  
11 department is not suspended by the appeal.

12 Sec. 146.004. ORIGINAL JURISDICTION OF BOARD. (a) In a  
13 municipality that does not have an internal affairs division or  
14 similar body in its police department and in which a community  
15 relations board has been established, a person who believes that a  
16 police officer of the municipality used excessive force or abused  
17 the officer's authority in the discharge or purported discharge of  
18 the officer's duties may file a written complaint with the board. A  
19 complaint under this subsection must be filed not later than the  
20 90th day after the date the act that is the subject of the complaint  
21 occurred.

22 (b) Each person who files a complaint and each officer  
23 accused in the complaint are parties to the complaint. The  
24 community relations board shall send a copy of the complaint to the  
25 accused officer as soon as practicable after the complaint is  
26 received. The officer may file a written statement in the officer's  
27 defense.

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

3           (1) the party is entitled to a hearing on the  
4 complaint; and

5           (2) any request for a hearing must be made to the board  
6 not later than the ninth day after the date the party receives the  
7 notice required by this subsection.

8       (d) The accused officer or the person who filed the  
9 complaint is entitled to a hearing on the complaint if the officer  
10 or the person makes a timely request for a hearing. A request from a  
11 party is timely if it is made within the period required by  
12 Subsection (c). The community relations board at any time may order  
13 a hearing on its own motion.

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

17       Sec. 146.005. CONDUCT OF PROCEEDINGS. (a) A party may be  
18 represented by counsel in any part of a proceeding held under this  
19 chapter.

20       (b) The community relations board shall conduct the  
21 proceedings as informally as possible, consistent with the  
22 principles of due process of law.

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

27           (1) order the suspension, demotion, or discharge of

1 the police officer;

2 (2) issue a reprimand; or

3 (3) exonerate the officer of the charge.

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

6 Sec. 146.006. BOARD MAY ADOPT RULES. The community  
7 relations board may adopt rules to govern its proceedings under  
8 this chapter.

9 Sec. 146.007. EFFECT OF CIVIL SERVICE COMMISSION DECISION.  
10 If a municipality has a civil service commission, and that  
11 commission issues a decision that is inconsistent with a community  
12 relations board's disposition of a complaint based on the same act,  
13 the board's decision prevails.

14 SECTION 2. The changes in law made by this Act apply only to  
15 an act committed or alleged to have been committed by a law  
16 enforcement officer on or after the effective date of this Act.

17 SECTION 3. This Act takes effect September 1, 2005.