

AN ACT

relating to the qualifications and removal of and continuing education requirements for a constable.

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

SECTION 1. Section 86.0021(a), Local Government Code, is amended to read as follows:

(a) A person is not eligible to serve as constable unless:

(1) the person is eligible to be licensed under Sections 1701.309 and 1701.312, Occupations Code, and:

(A) [~~(1)~~] has at least an associate's degree conferred by an institution of higher education accredited by an accrediting organization recognized by the Texas Higher Education Coordinating Board [a high school diploma or a high school equivalency certificate]; [and]

(B) is a special investigator under Article 2.122(a), Code of Criminal Procedure; or

(C) is an honorably retired peace officer or honorably retired federal criminal investigator who holds a certificate of proficiency issued under Section 1701.357, Occupations Code; or

(2) the person is an active or inactive licensed peace officer under Chapter 1701 [eligible to be licensed under Sections 1701.309 and 1701.312], Occupations Code.

SECTION 2. Subchapter H, Chapter 1701, Occupations Code, is

1 amended by adding Section 1701.3545 to read as follows:

2 Sec. 1701.3545. INITIAL TRAINING AND CONTINUING EDUCATION
3 FOR CONSTABLES. (a) A public institution of higher education
4 selected by the commission shall establish and offer a program of
5 initial training and a program of continuing education for
6 constables. The curriculum for each program must relate to law
7 enforcement management and civil process issues. The institution
8 selected under this subsection shall develop the curriculum for the
9 programs. The curriculum must be approved by the commission.

10 (b) Each constable must complete at least 40 hours of
11 continuing education provided by the selected institution under
12 this section each 48-month period.

13 (c) An individual appointed or elected to that individual's
14 first position as constable must complete at least 40 hours of
15 initial training for new constables in accordance with Subsections
16 (d) and (e).

17 (d) A newly appointed or elected constable shall complete
18 the initial training program for new constables not later than the
19 second anniversary of that individual's appointment or election as
20 constable. The initial training program for new constables is in
21 addition to the initial training required by this chapter. The
22 first 48-month period under Subsection (b) begins, for an
23 individual who completes the initial training program for new
24 constables under this section, on the first anniversary of the date
25 the individual completed the initial training program.

26 (e) The institution selected under Subsection (a) by rule
27 may provide for the waiver of:

1 (1) all or part of the required 40 hours of initial
2 training for new constables to the extent the new constable has
3 satisfactorily completed equivalent training during the 24 months
4 preceding the individual's appointment or election; or

5 (2) the continuing education requirements of
6 Subsection (b) for an individual who has satisfactorily completed
7 equivalent continuing education during the preceding 24 months.

8 (f) An individual who is subject to the continuing education
9 requirements of Subsection (b) is exempt from other continuing
10 education requirements under this subchapter.

11 (g) The commission shall establish procedures to annually
12 determine the status of the peace officer license of each elected
13 constable and to ensure that constables comply with this section.
14 The commission shall forward to the attorney general's office
15 documentation for each constable who does not comply with this
16 section. A constable who does not comply with this section forfeits
17 the office and the attorney general shall institute a quo warranto
18 proceeding under Chapter 66, Civil Practice and Remedies Code, to
19 remove the constable from office.

20 (h) To the extent of a conflict between this section and any
21 other law, this section controls.

22 SECTION 3. Section 1701.354, Occupations Code, is amended
23 to read as follows:

24 Sec. 1701.354. CONTINUING EDUCATION FOR [~~CONSTABLES AND~~]
25 DEPUTY CONSTABLES. (a) If the commission requires a state, county,
26 special district, or municipal agency that employs a [~~constable or~~]
27 deputy constable to provide the [~~constable or~~] deputy constable

1 with a training program under Section 1701.352, the commission
2 shall require the [~~constable or~~] deputy constable to attend at
3 least 20 hours of instruction in civil process.

4 (b) The commission shall adopt rules and procedures
5 concerning a civil process course, including rules providing for:

- 6 (1) approval of course content and standards; and
7 (2) issuance of course credit.

8 (c) [~~For the purposes of removal of a constable under~~
9 ~~Subchapter B, Chapter 87, Local Government Code, a constable is~~
10 ~~considered to be incompetent if the constable fails to complete the~~
11 ~~hours of instruction required by this section.~~

12 [~~(d)~~] The commission may waive the requirement that a
13 [~~constable or~~] deputy constable complete the instruction required
14 by this section if:

15 (1) the [~~constable or~~] deputy constable requests a
16 waiver because of hardship; and

- 17 (2) the commission determines that a hardship exists.

18 SECTION 4. (a) Not later than January 1, 2006, the public
19 institution of higher education selected by the Commission on Law
20 Enforcement Officer Standards and Education under Section
21 1701.3545, Occupations Code, as added by this Act, shall establish
22 the initial training and education programs required by that
23 section.

24 (b) Section 1701.3545(c), Occupations Code, as added by
25 this Act, requiring newly appointed or elected constables to
26 complete at least 40 hours of initial training, applies only to an
27 individual newly appointed or elected as constable who takes office

1 on or after January 1, 2006.

2 SECTION 5. The changes in law made by this Act to Section
3 86.0021, Local Government Code, do not apply to a constable serving
4 a term that began before the effective date of this Act. A
5 constable serving a term that began before the effective date of
6 this Act is governed for the remainder of that term by the
7 applicable law that existed immediately before the effective date
8 of this Act, and the prior law is continued in effect for that
9 purpose.

10 SECTION 6. This Act takes effect immediately if it receives
11 a vote of two-thirds of all the members elected to each house, as
12 provided by Section 39, Article III, Texas Constitution. If this
13 Act does not receive the vote necessary for immediate effect, this
14 Act takes effect September 1, 2005.

President of the Senate

Speaker of the House

I certify that H.B. No. 1588 was passed by the House on April 27, 2005, by the following vote: Yeas 141, Nays 0, 2 present, not voting; and that the House concurred in Senate amendments to H.B. No. 1588 on May 26, 2005, by the following vote: Yeas 138, Nays 0, 2 present, not voting.

Chief Clerk of the House

I certify that H.B. No. 1588 was passed by the Senate, with amendments, on May 24, 2005, by the following vote: Yeas 31, Nays 0.

Secretary of the Senate

APPROVED: _____

Date

Governor