

1-1 By: Driver (Senate Sponsor - Williams) H.B. No. 1588  
1-2 (In the Senate - Received from the House April 28, 2005;  
1-3 April 29, 2005, read first time and referred to Committee on  
1-4 Criminal Justice; May 16, 2005, reported adversely, with favorable  
1-5 Committee Substitute by the following vote: Yeas 5, Nays 0;  
1-6 May 16, 2005, sent to printer.)

1-7 COMMITTEE SUBSTITUTE FOR H.B. No. 1588 By: Ellis

1-8 A BILL TO BE ENTITLED  
1-9 AN ACT

1-10 relating to the qualifications and removal of and continuing  
1-11 education requirements for a constable.

1-12 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

1-13 SECTION 1. Section 86.0021(a), Local Government Code, is  
1-14 amended to read as follows:

1-15 (a) A person is not eligible to serve as constable unless:

1-16 (1) the person is eligible to be licensed under  
1-17 Sections 1701.309 and 1701.312, Occupations Code, and:

1-18 (A) ~~[(1)]~~ has at least an associate's degree  
1-19 conferred by an institution of higher education accredited by an  
1-20 accrediting organization recognized by the Texas Higher Education  
1-21 Coordinating Board [a high school diploma or a high school  
1-22 equivalency certificate]; [and]

1-23 (B) is a special investigator under Article  
1-24 2.122(a), Code of Criminal Procedure; or

1-25 (C) is an honorably retired peace officer or  
1-26 honorably retired federal criminal investigator who holds a  
1-27 certificate of proficiency issued under Section 1701.357,  
1-28 Occupations Code; or

1-29 (2) the person is an active or inactive licensed peace  
1-30 officer under Chapter 1701 [eligible to be licensed under Sections  
1-31 1701.309 and 1701.312], Occupations Code.

1-32 SECTION 2. Subchapter H, Chapter 1701, Occupations Code, is  
1-33 amended by adding Section 1701.3545 to read as follows:

1-34 Sec. 1701.3545. INITIAL TRAINING AND CONTINUING EDUCATION  
1-35 FOR CONSTABLES. (a) A public institution of higher education  
1-36 selected by the commission shall establish and offer a program of  
1-37 initial training and a program of continuing education for  
1-38 constables. The curriculum for each program must relate to law  
1-39 enforcement management and civil process issues. The institution  
1-40 selected under this subsection shall develop the curriculum for the  
1-41 programs. The curriculum must be approved by the commission.

1-42 (b) Each constable must complete at least 40 hours of  
1-43 continuing education provided by the selected institution under  
1-44 this section each 48-month period.

1-45 (c) An individual appointed or elected to that individual's  
1-46 first position as constable must complete at least 40 hours of  
1-47 initial training for new constables in accordance with Subsections  
1-48 (d) and (e).

1-49 (d) A newly appointed or elected constable shall complete  
1-50 the initial training program for new constables not later than the  
1-51 second anniversary of that individual's appointment or election as  
1-52 constable. The initial training program for new constables is in  
1-53 addition to the initial training required by this chapter. The  
1-54 first 48-month period under Subsection (b) begins, for an  
1-55 individual who completes the initial training program for new  
1-56 constables under this section, on the first anniversary of the date  
1-57 the individual completed the initial training program.

1-58 (e) The institution selected under Subsection (a) by rule  
1-59 may provide for the waiver of:

1-60 (1) all or part of the required 40 hours of initial  
1-61 training for new constables to the extent the new constable has  
1-62 satisfactorily completed equivalent training during the 24 months  
1-63 preceding the individual's appointment or election; or

2-1 (2) the continuing education requirements of  
2-2 Subsection (b) for an individual who has satisfactorily completed  
2-3 equivalent continuing education during the preceding 24 months.

2-4 (f) An individual who is subject to the continuing education  
2-5 requirements of Subsection (b) is exempt from other continuing  
2-6 education requirements under this subchapter.

2-7 (g) The commission shall establish procedures to annually  
2-8 determine the status of the peace officer license of each elected  
2-9 constable and to ensure that constables comply with this section.  
2-10 The commission shall forward to the attorney general's office  
2-11 documentation for each constable who does not comply with this  
2-12 section. A constable who does not comply with this section forfeits  
2-13 the office and the attorney general shall institute a quo warranto  
2-14 proceeding under Chapter 66, Civil Practice and Remedies Code, to  
2-15 remove the constable from office.

2-16 (h) To the extent of a conflict between this section and any  
2-17 other law, this section controls.

2-18 SECTION 3. Section 1701.354, Occupations Code, is amended  
2-19 to read as follows:

2-20 Sec. 1701.354. CONTINUING EDUCATION FOR [~~CONSTABLES AND~~]  
2-21 DEPUTY CONSTABLES. (a) If the commission requires a state, county,  
2-22 special district, or municipal agency that employs a [~~constable or~~]  
2-23 deputy constable to provide the [~~constable or~~] deputy constable  
2-24 with a training program under Section 1701.352, the commission  
2-25 shall require the [~~constable or~~] deputy constable to attend at  
2-26 least 20 hours of instruction in civil process.

2-27 (b) The commission shall adopt rules and procedures  
2-28 concerning a civil process course, including rules providing for:

- 2-29 (1) approval of course content and standards; and
- 2-30 (2) issuance of course credit.

2-31 (c) [~~For the purposes of removal of a constable under~~  
2-32 ~~Subchapter B, Chapter 87, Local Government Code, a constable is~~  
2-33 ~~considered to be incompetent if the constable fails to complete the~~  
2-34 ~~hours of instruction required by this section.~~

2-35 [~~(d)~~] The commission may waive the requirement that a  
2-36 [~~constable or~~] deputy constable complete the instruction required  
2-37 by this section if:

- 2-38 (1) the [~~constable or~~] deputy constable requests a  
2-39 waiver because of hardship; and
- 2-40 (2) the commission determines that a hardship exists.

2-41 SECTION 4. (a) Not later than January 1, 2006, the public  
2-42 institution of higher education selected by the Commission on Law  
2-43 Enforcement Officer Standards and Education under Section  
2-44 1701.3545, Occupations Code, as added by this Act, shall establish  
2-45 the initial training and education programs required by that  
2-46 section.

2-47 (b) Section 1701.3545(c), Occupations Code, as added by  
2-48 this Act, requiring newly appointed or elected constables to  
2-49 complete at least 40 hours of initial training, applies only to an  
2-50 individual newly appointed or elected as constable who takes office  
2-51 on or after January 1, 2006.

2-52 SECTION 5. The changes in law made by this Act to Section  
2-53 86.0021, Local Government Code, do not apply to a constable serving  
2-54 a term that began before the effective date of this Act. A  
2-55 constable serving a term that began before the effective date of  
2-56 this Act is governed for the remainder of that term by the  
2-57 applicable law that existed immediately before the effective date  
2-58 of this Act, and the prior law is continued in effect for that  
2-59 purpose.

2-60 SECTION 6. This Act takes effect immediately if it receives  
2-61 a vote of two-thirds of all the members elected to each house, as  
2-62 provided by Section 39, Article III, Texas Constitution. If this  
2-63 Act does not receive the vote necessary for immediate effect, this  
2-64 Act takes effect September 1, 2005.

2-65 \* \* \* \* \*