

1-1 By: Driver (Senate Sponsor - Seliger) H.B. No. 2677
1-2 (In the Senate - Received from the House May 2, 2005;
1-3 May 3, 2005, read first time and referred to Committee on Criminal
1-4 Justice; May 20, 2005, reported favorably by the following vote:
1-5 Yeas 4, Nays 0; May 20, 2005, sent to printer.)

1-6 A BILL TO BE ENTITLED
1-7 AN ACT

1-8 relating to certain employment records maintained by the Commission
1-9 on Law Enforcement Officer Standards and Education; providing an
1-10 administrative penalty.

1-11 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

1-12 SECTION 1. Section 1701.451, Occupations Code, is amended
1-13 to read as follows:

1-14 Sec. 1701.451. PREEMPLOYMENT REQUEST FOR EMPLOYMENT
1-15 TERMINATION REPORT AND SUBMISSION OF BACKGROUND CHECK CONFIRMATION
1-16 FORM [INQUIRY]. (a) Before a law enforcement agency may hire a
1-17 person licensed under this chapter, the agency head or the agency
1-18 head's designee must:

1-19 (1) make a written request to the commission for any
1-20 employment termination report regarding the person that is
1-21 maintained by the commission under [contact the commission to
1-22 determine whether the commission has employment history records for
1-23 the person required by] this subchapter; and

1-24 (2) submit to the commission on the form prescribed by
1-25 the commission confirmation that the agency:

1-26 (A) conducted a criminal background check
1-27 regarding the person;

1-28 (B) obtained the person's written consent for the
1-29 agency to view the person's employment records;

1-30 (C) obtained from the commission any service or
1-31 education records regarding the person maintained by the
1-32 commission; and

1-33 (D) contacted each of the person's previous law
1-34 enforcement employers.

1-35 (b) The written request required by Subsection (a)(1) must
1-36 be on the agency's letterhead and be signed by the agency head or
1-37 the agency head's designee.

1-38 (c) If the commission receives from a law enforcement agency
1-39 a written request that complies with Subsections (a)(1) and (b),
1-40 the commission employee having the responsibility to maintain any
1-41 employment termination report regarding the person who is the
1-42 subject of the request shall release the report to the agency.
1-43 [This section does not authorize the commission to release
1-44 information concerning the records other than information
1-45 regarding the existence of the records.

1-46 [(c) A law enforcement agency may not use information
1-47 obtained under this section to affect a person's eligibility for
1-48 employment with the agency.]

1-49 SECTION 2. Section 1701.452, Occupations Code, is amended
1-50 to read as follows:

1-51 Sec. 1701.452. EMPLOYMENT TERMINATION REPORT. (a) The
1-52 head of a law enforcement agency shall submit a report to the
1-53 commission on a form prescribed by the commission regarding a
1-54 person licensed under this chapter who resigns from the employment
1-55 of the law enforcement agency or whose appointment with the law
1-56 enforcement agency is terminated. The agency head shall include in
1-57 the report:

1-58 (1) an explanation of the circumstances under which
1-59 the person resigned or was terminated; and

1-60 (2) one of the following designations:

1-61 (A) retired, which applies only to an officer

1-62 who:

1-63 (i) left the agency while in good standing;

1-64 and

3-1 commission's order or under Subsection (c) to correct an employment
3-2 termination report is a contested case under Chapter 2001,
3-3 Government Code.

3-4 (e) The commission shall adopt rules for the administration
3-5 of this section.

3-6 SECTION 4. Section 1701.454(b), Occupations Code, is
3-7 amended to read as follows:

3-8 (b) Except as provided by this subchapter [~~subsection~~], a
3-9 commission member or other person may not release the contents of a
3-10 report or statement submitted under this subchapter. [~~The report~~
3-11 ~~or statement may be released only by the commission employee having~~
3-12 ~~the responsibility to maintain the report or statement and only if:~~

3-13 [~~(1) the head of a law enforcement agency or the agency~~
3-14 ~~head's designee makes a written request on the agency's letterhead~~
3-15 ~~for the report or statement accompanied by the agency head's or~~
3-16 ~~designee's signature; and~~

3-17 [~~(2) the person who is the subject of the report or~~
3-18 ~~statement authorizes the release by providing a sworn statement on~~
3-19 ~~a form supplied by the commission that includes the person's waiver~~
3-20 ~~of liability regarding an agency head who is responsible for or who~~
3-21 ~~takes action based on the report or statement.]~~

3-22 SECTION 5. Section 1701.456(a), Occupations Code, is
3-23 amended to read as follows:

3-24 (a) The commission is not liable for civil damages for
3-25 providing information contained in a report or statement maintained
3-26 by the commission under this subchapter if the commission released
3-27 the information as provided by this subchapter [~~Section~~
3-28 ~~1701.454(b)~~].

3-29 SECTION 6. The changes in law made by this Act in relation
3-30 to employment termination reports apply only to an employment
3-31 termination report under Subchapter J, Chapter 1701, Occupations
3-32 Code, regarding a resignation or termination that occurs on or
3-33 after the effective date of this Act. An employment termination
3-34 report regarding a resignation or termination that occurs before
3-35 the effective date of this Act is governed by the law as it existed
3-36 immediately before the effective date, and that law is continued in
3-37 effect for that purpose.

3-38 SECTION 7. This Act takes effect September 1, 2005.

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