

BILL ANALYSIS

Senate Research Center
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C.S.S.B. 1395
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Criminal Justice
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Committee Report (Substituted)

AUTHOR'S / SPONSOR'S STATEMENT OF INTENT

The 79th Legislature recognized the need to address the growing phenomena within law enforcement where officers, known as "gypsy cops," move from one department to another because of disciplinary or performance problems. H.B. 2677 was enacted by the 79th Legislature to prevent such officers from moving to new departments. Proponents of the bill hoped that the required background checks and disclosure of the reasons of termination which the bill included would remove gypsy cops from the job market.

C.S.S.B. 1395 provides more narrow definitions to further strengthen the statute enacted in the 79th Legislature. This bill also requires the Texas Commission on Law Enforcement Officer Standards and Education to revoke the license of an officer who is dishonorably discharged on two separate occasions after all appeals are exhausted.

RULEMAKING AUTHORITY

Rulemaking authority is expressly granted to the Texas Commission on Law Enforcement Officer Standards and Education in SECTION 2 (Section 1701.452, Occupations Code) of this bill.

SECTION BY SECTION ANALYSIS

SECTION 1. Amends Section 1701.451, Occupations Code, by amending Subsection (a) and adding Subsection (a-1), as follows:

(a) Requires a law enforcement agency head or the agency head's designee to submit to the Commission on Law Enforcement Officer Standards and Education (commission) on the form prescribed by the commission confirmation that the agency conducted in the manner prescribed by the commission a criminal background check regarding the person and obtained the person's written consent on a form prescribed by the commission for the agency to view the person's employment records before a law enforcement agency may hire a person licensed under this chapter.

(a-1) Requires a law enforcement agency that obtains a consent form described by Subsection (a)(2)(B) to make the person's employment records available to a hiring law enforcement agency on request.

SECTION 2. Amends Section 1701.452, Occupations Code, as follows:

Sec. 1701.452. EMPLOYMENT TERMINATION REPORT. (a) Requires the head of a law enforcement agency or the head's designee to submit a report to the commission on a form prescribed by the commission regarding a person licensed under this chapter who retires from employment with the law enforcement agency, whose appointment with the law enforcement agency is terminated, or who separates from the law enforcement agency for any other reason. Requires the report to be submitted by the head or the designee not later than the seventh business day after a certain date.

(b) Requires the head of a law enforcement agency or the head's designee to include in the report required under Subsection (a) a statement on whether the license holder was honorably discharged, generally discharged, or dishonorably discharged, rather than certain information. Defines "honorably discharged,"

"generally discharged," and "dishonorably discharged" for purposes of this subsection.

(c) Authorizes the commission by rule to further specify the circumstances that constitute honorably discharged, dishonorably discharged, and generally discharged within the definitions provided by Subsection (b). Deletes existing text relating to certain information and designations required to be reported.

(d) Requires the head of the law enforcement agency from which a license holder, rather than a person, resigns, retires, is terminated, or separates for reasons other than death, or the head's designee, to provide to the license holder a copy of the report. Requires the report to be provided to the license holder not later than the seventh business day after a certain date.

(e) Makes conforming changes.

(f) Provides that the head of a law enforcement agency or the head's designee satisfies the obligation to provide the report required under Subsection (d) or (e) by sending certain documents by certified mail.

(g) Makes conforming changes.

SECTION 3. Amends Subchapter J, Chapter 1701, Occupations Code, by adding Section 1701.4521, as follows:

Sec. 1701.4521. LICENSE SUSPENSION FOR OFFICER DISHONORABLY DISCHARGED. (a) Requires the commission to suspend the license of an officer licensed under this chapter on notification that the officer has been dishonorably discharged if the officer has previously been dishonorably discharged from another law enforcement agency.

(b) Authorizes an officer whose license is suspended under this section to appeal the suspension in writing to the commission not later than the 30th day after the date the officer is suspended.

(c) Authorizes the commission to revoke or reinstate the officer's license in accordance with rules or procedures adopted by the commission under this chapter related to revocation or reinstatement of a license after a commission determination. Requires the commission to revoke the officer's license if the officer does not appeal the suspension before the 30th day after the date the officer is suspended.

(d) Provides that the commission's decision does not affect the employment relationship between an officer and a law enforcement agency, or any disciplinary action taken against an officer by a law enforcement agency.

SECTION 4. Amends Section 1701.4525, Occupations Code, by amending Subsection (e) and adding Subsection (f), as follows:

(e) Requires an administrative law judge to determine if the alleged misconduct occurred by a preponderance of the evidence regardless of whether the person who is the subject of the report was terminated or the person resigned, retired, or separated in lieu of termination in a preceding under Subsection (b) to contest the commission's order under Subsection (c) to correct an employment termination report for an order or report based on alleged misconduct. Requires the administrative law judge to order the report to be changed if the alleged misconduct is not supported by a preponderance of the evidence.

(f) Creates this subsection from existing text.

SECTION 5. Amends Subchapter J, Chapter 1701, Occupations Code, by adding Section 1701.458, as follows:

Sec. 1701.458. VENUE. Provides that the venue for the prosecution of an offense under Section 37.10 (Tampering With Governmental Record), Penal Code, that arises from a report required under this subchapter lies in the county where the offense occurred or in Travis County.

SECTION 6. Makes application of Subchapter J, Chapter 1701, Occupations Code, as amended by this Act, prospective.

SECTION 7. Effective date: September 1, 2007.