

By: Bailey

H.B. No. 3588

A BILL TO BE ENTITLED

AN ACT

relating to sheriff's department civil service systems in certain counties; providing a criminal penalty.

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

SECTION 1. Section 158.034, Local Government Code, is amended by amending Subsection (e) and adding Subsection (f) to read as follows:

(e) To be eligible for appointment to the commission, a person must:

(1) be at least 25 years old; ~~and~~

(2) have resided in the county for the three years immediately preceding the date on which the person's term will begin;

(3) be a United States citizen;

(4) be of good moral character;

(5) not have held a public office in the three years immediately preceding the date on which the person's term will begin; and

(6) not have served on the commission for more than six years.

(f) Subsection (e)(5) does not prohibit the appointment of a member if the only public office held by the member in the preceding three years is membership on the commission.

SECTION 2. Subchapter B, Chapter 158, Local Government

1 Code, is amended by adding Sections 158.0341 through 158.0344,
2 158.0352, and 158.0353 to read as follows:

3 Sec. 158.0341. REMOVAL OF COMMISSION MEMBER. (a) If at a
4 meeting held for that purpose the commissioners court of the county
5 finds that a commission member is guilty of misconduct in office,
6 the commissioners court may remove the member. The member may
7 request that the meeting be held as an open hearing in accordance
8 with Chapter 551, Government Code.

9 (b) If a commission member is indicted or charged by
10 information with a criminal offense involving moral turpitude, the
11 member is automatically suspended from office until the disposition
12 of the charge. Unless the member pleads guilty or is found to be
13 guilty, the member shall resume office at the time of disposition of
14 the charge.

15 (c) The commissioners court may appoint a substitute
16 commission member during a period of suspension.

17 (d) If a commission member pleads guilty to or is found to be
18 guilty of a criminal offense involving moral turpitude, the
19 commissioners court shall appoint a replacement commission member
20 to serve the remainder of the disqualified member's term of office.

21 Sec. 158.0342. COMMISSION INVESTIGATIONS AND INSPECTIONS.

22 (a) The commission or a commission member designated by the
23 commission may investigate and report on all matters relating to
24 the enforcement and effect of this subchapter and any rules adopted
25 under this subchapter and shall determine if the subchapter and
26 rules are being obeyed.

27 (b) During an investigation, the commission or the

1 commission member may:

2 (1) administer oaths;

3 (2) issue subpoenas to compel the attendance of
4 witnesses and the production of books, papers, documents, and
5 accounts relating to the investigation; and

6 (3) cause the deposition of witnesses residing inside
7 or outside the state.

8 (c) A deposition taken in connection with an investigation
9 under this section must be taken in the manner prescribed by law for
10 taking a similar deposition in a civil action in federal district
11 court.

12 (d) An oath administered or a subpoena issued under this
13 section has the same force and effect as an oath administered by a
14 magistrate in the magistrate's judicial capacity.

15 (e) A person who fails to respond to a subpoena issued under
16 this section commits an offense punishable as prescribed by Section
17 158.0343.

18 Sec. 158.0343. CRIMINAL PENALTY FOR VIOLATION OF
19 SUBCHAPTER. (a) A person subject to the provisions of this
20 subchapter commits an offense if the person violates this
21 subchapter.

22 (b) An offense under this section is a misdemeanor
23 punishable by a fine of not less than \$10 or more than \$1,000,
24 confinement in the county jail for not more than 30 days, or both
25 fine and confinement.

26 Sec. 158.0344. DECISIONS AND RECORDS. (a) Each concurring
27 commission member shall sign a decision issued by the commission.

1 (b) The commission shall keep records of each hearing or
2 case that comes before the commission.

3 (c) Each rule, opinion, directive, decision, or order
4 issued by the commission:

5 (1) must be in writing; and

6 (2) is a public record that the commission shall
7 retain on file.

8 Sec. 158.0352. DISCIPLINARY SUSPENSIONS. (a) The sheriff
9 may suspend an employee for the violation of a civil service rule.
10 The suspension may be for a reasonable period not to exceed 15
11 calendar days or for an indefinite period. An indefinite
12 suspension is equivalent to dismissal from the department.

13 (b) If the sheriff suspends an employee, the sheriff shall,
14 within 120 hours after the hour of suspension, file a written
15 statement with the commission giving the reasons for the
16 suspension. The sheriff shall immediately deliver a copy of the
17 statement in person to the suspended employee.

18 (c) The copy of the written statement must inform the
19 suspended employee that if the person wants to appeal to the
20 commission, the person must file a written appeal with the
21 commission within 10 days after the date the person receives the
22 copy of the statement.

23 (d) The written statement filed by the sheriff with the
24 commission must point out each civil service rule alleged to have
25 been violated by the suspended employee and must describe the
26 alleged acts of the person that the sheriff contends are in
27 violation of the civil service rules. It is not sufficient for the

1 sheriff merely to refer to the provisions of the rules alleged to
2 have been violated.

3 (e) If the sheriff does not specifically point out in the
4 written statement the act or acts of the employee that allegedly
5 violated the civil service rules, the commission shall promptly
6 reinstate the person.

7 (f) If offered by the sheriff, the employee may agree in
8 writing to voluntarily accept, with no right of appeal, a
9 suspension of 16 to 90 calendar days for the violation of a civil
10 service rule. The employee must accept the offer within five
11 working days after the date the offer is made. If the person
12 refuses the offer and wants to appeal to the commission, the person
13 must file a written appeal with the commission in accordance with
14 Section 158.037.

15 (g) In the original written statement and charges and in any
16 hearing conducted under this subchapter, the sheriff may not
17 complain of an act that occurred earlier than the 180th day
18 preceding the date the sheriff suspends the employee. If the act is
19 allegedly related to criminal activity, including the violation of
20 a federal, state, or local law for which the employee is subject to
21 a criminal penalty:

22 (1) the sheriff may not complain of an act that is
23 discovered earlier than the 180th day preceding the date the
24 sheriff suspends the employee; and

25 (2) the sheriff must allege that the act complained of
26 is related to criminal activity.

27 Sec. 158.0353. DEMOTIONS. (a) The sheriff may recommend to

1 the commission in writing that the commission demote a nonexempt
2 employee involuntarily.

3 (b) The sheriff must include in the recommendation for
4 demotion the reasons for the recommended demotion and a request
5 that the commission order the demotion. The sheriff must
6 immediately furnish a copy of the recommendation in person to the
7 affected employee.

8 (c) The commission may refuse to grant the request for
9 demotion. If the commission believes that probable cause exists
10 for ordering the demotion, the commission shall give the employee
11 written notice to appear before the commission for a public hearing
12 at a time and place specified in the notice. The commission shall
13 give the notice before the 10th day before the date the hearing will
14 be held.

15 (d) The employee is entitled to a full and complete public
16 hearing, and the commission may not demote an employee without that
17 public hearing.

18 (e) A voluntary demotion in which the employee has accepted
19 the terms of the demotion in writing is not subject to this section.

20 SECTION 3. Section 158.037, Local Government Code, is
21 amended to read as follows:

22 Sec. 158.037. APPEALS. (a) Except as otherwise provided by
23 this subchapter, an employee may appeal to the commission an action
24 for which an appeal or review is provided by this subchapter by
25 filing an appeal with the commission within 10 days after the date
26 the action occurred.

27 (b) The appeal must include the basis for the appeal and a

1 request for a commission hearing. The appeal must also contain:

2 (1) a statement denying the truth of the charge as
3 made;

4 (2) a statement taking exception to the legal
5 sufficiency of the charge;

6 (3) a statement alleging that the recommended action
7 does not fit the offense or alleged offense; or

8 (4) a combination of the statements described by this
9 subsection.

10 (c) In each hearing, appeal, or review of any kind in which
11 the commission performs an adjudicatory function, the affected
12 employee is entitled to be represented by counsel or a person the
13 employee chooses. Each commission proceeding must be held in
14 public.

15 (d) The commission may issue subpoenas and subpoenas duces
16 tecum for the attendance of witnesses and for the production of
17 documentary material.

18 (e) The affected employee may request the commission to
19 subpoena any books, records, documents, papers, accounts, or
20 witnesses that the employee considers pertinent to the case. The
21 employee must make the request before the 10th day before the date
22 the commission hearing will be held. If the commission does not
23 subpoena the material, the commission shall, before the third day
24 before the date the hearing will be held, make a written report to
25 the employee stating the reason it will not subpoena the requested
26 material. The report must be read into the public record of the
27 commission hearing.

1 (f) Witnesses may be placed under the rule at the commission
2 hearing.

3 (g) The commission shall conduct the hearing fairly and
4 impartially as prescribed by this subchapter and shall render a
5 just and fair decision. The commission may consider only the
6 evidence submitted at the hearing.

7 (h) The commission shall maintain a public record of each
8 proceeding with copies available at cost.

9 (i) If a suspended employee appeals a suspension to the
10 commission, the commission shall hold a hearing and render a
11 decision in writing within 30 days after the date the commission
12 receives notice of appeal. The suspended person and the commission
13 may agree to postpone the hearing for a definite period.

14 (j) In a hearing conducted under this section, the sheriff
15 is restricted to the sheriff's original written statement and
16 charges, which may not be amended.

17 (k) The commission may deliberate the decision in closed
18 session but may not consider evidence that was not presented at the
19 hearing. The commission shall vote in open session.

20 (l) The commission may suspend or dismiss an employee for
21 violation of civil service rules and only after a finding by the
22 commission of the truth of specific charges against the employee.

23 (m) In its decision, the commission shall state whether the
24 suspended employee is:

25 (1) permanently dismissed from the department;

26 (2) temporarily suspended from the department; or

27 (3) restored to the person's former position or status

1 in the department's classified service.

2 (n) If the commission finds that the period of disciplinary
3 suspension should be reduced, the commission may order a reduction
4 in the period of suspension. If the suspended employee is restored
5 to the position or class of service from which the person was
6 suspended, the employee is entitled to:

7 (1) full compensation for the actual time lost as a
8 result of the suspension at the rate of pay provided for the
9 position or class of service from which the person was suspended;
10 and

11 (2) restoration of or credit for any other benefits
12 lost as a result of the suspension, including sick leave, vacation
13 leave, and service credit in a retirement system. Standard payroll
14 deductions, if any, for retirement and other benefits restored
15 shall be made from the compensation paid, and the county shall make
16 its standard corresponding contributions, if any, to the retirement
17 system or other applicable benefit systems.

18 (o) An employee who, on a final decision by the commission,
19 is demoted, suspended, or removed from a position may appeal the
20 decision by filing a petition in a district court in the county
21 within 30 days after the date of the decision.

22 (p) [~~(b)~~] An appeal under Subsection (o) [~~this section~~] is
23 under the substantial evidence rule, and the judgment of the
24 district court is appealable as in other civil cases.

25 (q) Each appeal to a district court of an indefinite
26 suspension shall be advanced on the district court docket and given
27 a preference setting over all other cases.

1 (r) [~~(e)~~] If the district court renders judgment for the
2 petitioner, the court may order reinstatement of the employee,
3 payment of back pay, or other appropriate relief.

4 SECTION 4. Subchapter B, Chapter 158, Local Government
5 Code, is amended by adding Sections 158.0372 through 158.0374 and
6 Sections 158.041 through 158.062 to read as follows:

7 Sec. 158.0372. REINSTATEMENT. (a) If the commission, a
8 hearing examiner, or a district court orders that an employee
9 suspended without pay be reinstated, the sheriff shall comply with
10 the order and the county shall, before the end of the second full
11 pay period after the date the person is reinstated, repay to the
12 person all wages lost as a result of the suspension.

13 (b) If the county does not fully repay all lost wages to the
14 employee as provided by this section, the county shall pay the
15 person an amount equal to the lost wages plus accrued interest.

16 (c) Interest under Subsection (b) accrues beginning on the
17 date of the employee's reinstatement at a rate equal to three
18 percent plus the rate for court judgments under Chapter 304,
19 Finance Code, that is in effect on the date of the person's
20 reinstatement.

21 Sec. 158.0373. HEARING EXAMINERS. (a) In addition to the
22 other notice requirements prescribed by this subchapter, the
23 written notice for a promotional bypass, demotion, or notice of
24 disciplinary action, as applicable, issued to an employee must
25 state that in an appeal of an indefinite suspension, a suspension, a
26 promotional bypass, or a recommended demotion, the appealing
27 employee may elect to appeal to an independent third-party hearing

1 examiner instead of to the commission. The letter must also state
2 that if the employee elects to appeal to a hearing examiner, the
3 person waives all rights to appeal to a district court except as
4 provided by Subsection (j).

5 (b) To exercise the choice of appealing to a hearing
6 examiner, the appealing employee must submit to the commission a
7 written request as part of the original notice of appeal required
8 under this subchapter stating the person's decision to appeal to an
9 independent third-party hearing examiner.

10 (c) The hearing examiner's decision is final and binding on
11 all parties. If the employee decides to appeal to an independent
12 third-party hearing examiner, the person waives all rights to
13 appeal to a district court except as provided by Subsection (j).

14 (d) If the employee chooses to appeal to a hearing examiner,
15 the employee and the sheriff, or their designees, shall first
16 attempt to agree on the selection of an impartial hearing examiner.
17 If the parties do not agree on the selection of a hearing examiner
18 on or within 10 days after the date the appeal is filed, the
19 commission shall immediately request a list of seven qualified
20 neutral arbitrators from the American Arbitration Association or
21 the Federal Mediation and Conciliation Service, or their successors
22 in function. The employee and the sheriff, or their designees, may
23 agree on one of the seven neutral arbitrators on the list. If they
24 do not agree within five working days after the date they received
25 the list, each party or the party's designee shall alternate
26 striking a name from the list and the name remaining is the hearing
27 examiner. The parties or their designees shall agree on a date for

1 the hearing.

2 (e) The appeal hearing shall begin as soon as the hearing
3 examiner can be scheduled. If the hearing examiner cannot begin the
4 hearing within 45 calendar days after the date of selection, the
5 employee may, within two days after learning of that fact, call for
6 the selection of a new hearing examiner using the procedure
7 prescribed by Subsection (d).

8 (f) In each hearing conducted under this section, the
9 hearing examiner has the same duties and powers as the commission,
10 including the right to issue subpoenas.

11 (g) In a hearing conducted under this section, the parties
12 may agree to an expedited hearing procedure. Unless otherwise
13 agreed by the parties, in an expedited procedure the hearing
14 examiner shall render a decision on the appeal within 10 days after
15 the date the hearing ended.

16 (h) In an appeal that does not involve an expedited hearing
17 procedure, the hearing examiner shall make a reasonable effort to
18 render a decision on the appeal within 30 days after the date the
19 hearing ends or the briefs are filed. The hearing examiner's
20 inability to meet the time requirements imposed by this section
21 does not affect the hearing examiner's jurisdiction, the validity
22 of the disciplinary action, or the hearing examiner's final
23 decision.

24 (i) The hearing examiner's fees and expenses are shared
25 equally by the appealing employee and by the department. The costs
26 of a witness are paid by the party who calls the witness.

27 (j) A district court may hear an appeal of a hearing

1 examiner's award only on the grounds that the hearing examiner was
2 without jurisdiction or exceeded the hearing examiner's
3 jurisdiction or that the order was procured by fraud, collusion, or
4 other unlawful means. An appeal must be brought in the district
5 court having jurisdiction in the county in which the department is
6 located.

7 Sec. 158.0374. UNCOMPENSATED DUTY. (a) In this section,
8 "uncompensated duty" means days of work without pay that are in
9 addition to regular or normal workdays.

10 (b) The sheriff may assign an employee to uncompensated
11 duty. The sheriff may not impose uncompensated duty unless the
12 employee agrees to accept the duty. The sheriff shall give the
13 person a written statement that specifies the date or dates on which
14 the person will perform uncompensated duty if the employee agrees
15 to accept uncompensated duty.

16 (c) Uncompensated duty may be in place of or in combination
17 with a period of disciplinary suspension without pay. If
18 uncompensated duty is combined with a disciplinary suspension, the
19 total number of uncompensated days may not exceed 15.

20 (d) An employee may not earn or accrue any wage, salary, or
21 benefit arising from length of service while the person is
22 suspended without pay or performing uncompensated duty. The days
23 on which an employee performs assigned uncompensated duty may not
24 be taken into consideration in determining eligibility for a
25 promotional examination.

26 (e) Except as provided by this section, an employee who
27 performs assigned uncompensated duty retains all rights and

1 privileges of the person's position in the department and of the
2 person's employment by the county.

3 Sec. 158.041. PROMOTIONAL EXAMINATION NOTICE. (a) Not
4 later than the 90th day before the date a promotional examination is
5 held, the commission shall post a notice that lists the sources from
6 which the examination questions will be taken.

7 (b) Not later than the 30th day before the date a
8 promotional examination is held, the commission shall post a notice
9 of the examination in plain view on a bulletin board located in the
10 main lobby of the sheriff's department and in the commission's
11 office. The notice must show the position to be filled or for which
12 the examination is to be held, and the date, time, and place of the
13 examination. The commission shall also furnish sufficient copies
14 of the notice for posting in the stations or subdepartments in which
15 the position will be filled.

16 (c) The notice required by Subsection (b) may also include
17 the name of each source used for the examination, the number of
18 questions taken from each source, and the chapter used in each
19 source.

20 Sec. 158.042. ELIGIBILITY FOR PROMOTIONAL EXAMINATION. (a)
21 Each promotional examination is open to each employee who for at
22 least two years immediately before the examination date has
23 continuously held a position in the classification that is
24 immediately below, in salary, the classification for which the
25 examination is to be held.

26 (b) If the department has adopted a classification plan that
27 classifies positions on the basis of similarity in duties and

1 responsibilities, each promotional examination is open to each
2 employee who has continuously held, for at least two years
3 immediately before the examination date, a position at the next
4 lower pay grade, if it exists, in the classification for which the
5 examination is to be held.

6 (c) If there are not sufficient employees in the next lower
7 position with two years' service in that position to provide an
8 adequate number of persons to take the examination, the commission
9 shall open the examination to persons in that position with less
10 than two years' service. If there is still an insufficient number,
11 the commission may open the examination to persons in the second
12 lower position, in salary, to the position for which the
13 examination is to be held.

14 Sec. 158.043. PROMOTIONAL EXAMINATION PROCEDURE; CRIMINAL
15 PENALTY. (a) The commission shall adopt rules governing
16 promotions and shall hold promotional examinations to provide
17 eligibility lists for each nonexempt classification in the
18 department. The examinations shall be held substantially as
19 prescribed by this section.

20 (b) Each eligible promotional candidate shall be given an
21 identical examination in the presence of the other eligible
22 promotional candidates, except that an eligible promotional
23 candidate who is serving on active military duty outside of this
24 state or in a location that is not within reasonable geographic
25 proximity to the location where the examination is being
26 administered is entitled to take the examination outside of the
27 presence of and at a different time than the other candidates and

1 may be allowed to take an examination that is not identical to the
2 examination administered to the other candidates. The commission
3 may adopt rules providing for the efficient administration of
4 promotional examinations to eligible promotional candidates who
5 are members of the armed forces serving on active military duty. In
6 adopting the rules, the commission shall ensure that the
7 administration of the examination will not result in unnecessary
8 interference with any ongoing military effort. The rules must
9 require that:

10 (1) at the discretion of the administering entity, an
11 examination that is not identical to the examination administered
12 to other eligible promotional candidates may be administered to an
13 eligible promotional candidate who is serving on active military
14 duty; and

15 (2) if a candidate serving on active military duty
16 takes a promotional examination outside the presence of other
17 candidates and passes the examination, the candidate's name shall
18 be included in the eligibility list of names of promotional
19 candidates who took and passed the examination nearest in time to
20 the time at which the candidate on active military duty took the
21 examination.

22 (c) The examination must be entirely in writing and may not
23 in any part consist of an oral interview.

24 (d) The examination questions must test the knowledge of the
25 eligible promotional candidates about information and facts and
26 must be based on:

27 (1) the duties of the position for which the

1 examination is held;

2 (2) material that is of reasonably current publication
3 and that has been made reasonably available to each employee
4 involved in the examination; and

5 (3) any study course given by the departmental schools
6 of instruction.

7 (e) The examination questions must be taken from the sources
8 listed in the posted notice under Section 158.041(a). Employees
9 may suggest source materials for the examinations.

10 (f) The examination questions must be prepared and composed
11 so that the grading of the examination can be promptly completed
12 immediately after the examination is over.

13 (g) The commission is responsible for the preparation and
14 security of each promotional examination. The fairness of the
15 competitive promotional examination is the responsibility of the
16 commission and each county employee involved in the preparation or
17 administration of the examination.

18 (h) A person commits an offense if the person knowingly or
19 intentionally:

20 (1) reveals a part of a promotional examination to an
21 unauthorized person for unfair personal gain or advantage; or

22 (2) receives from any person a part of a promotional
23 examination for unfair personal gain or advantage.

24 (i) An offense under Subsection (h) is a misdemeanor
25 punishable by a fine of not less than \$1,000, confinement in the
26 county jail for not more than one year, or both fine and
27 confinement.

1 Sec. 158.044. PROMOTIONAL EXAMINATION GRADES. (a) The
2 grading of each promotional examination shall begin when one
3 eligible promotional candidate completes the examination. As the
4 eligible promotional candidates finish the examination, the
5 examinations shall be graded at the examination location and in the
6 presence of any candidate who wants to remain during the grading.

7 (b) Each employee is entitled to receive one point for each
8 year of seniority as a classified employee in the department, with a
9 maximum of 10 points.

10 (c) The grade that must be placed on the eligibility list
11 for each employee shall be computed by adding the applicant's
12 points for seniority to the applicant's grade on the written
13 examination, but only if the applicant scores a passing grade on the
14 written examination. Each applicant's grade on the written
15 examination is based on a maximum grade of 100 points and is
16 determined entirely by the correctness of the applicant's answers
17 to the questions. All applicants who receive a grade on the written
18 examination of at least 70 points shall be determined to have passed
19 the examination. If a tie score occurs, the commission shall
20 determine a method to break the tie.

21 (d) Within 24 hours after a promotional examination is
22 given, the commission shall post the individual raw test scores on a
23 bulletin board located in the main lobby of the sheriff's
24 department.

25 Sec. 158.045. REVIEW AND APPEAL OF PROMOTIONAL EXAMINATION.

26 (a) On request, each eligible promotional candidate is entitled to
27 examine the person's promotional examination and answers, the

1 examination grading, and the source material for the examination.
2 If dissatisfied, the candidate may appeal, within seven days, to
3 the commission for review in accordance with this subchapter.

4 (b) The eligible promotional candidate may not remove the
5 examination or copy a question used in the examination.

6 Sec. 158.046. PROCEDURE FOR MAKING PROMOTIONAL
7 APPOINTMENTS. (a) When a vacancy occurs in a nonentry, nonexempt
8 position, the vacancy shall be filled as prescribed by this
9 section. A vacancy in a position described by this subsection
10 occurs on the date the position is vacated by:

- 11 (1) resignation;
- 12 (2) retirement;
- 13 (3) death;
- 14 (4) promotion; or
- 15 (5) an indefinite suspension that becomes final.

16 (b) If an eligibility list for the position to be filled
17 exists on the date the vacancy occurs, the commission shall certify
18 to the sheriff the names of the three persons having the highest
19 grades on that eligibility list. The commission shall certify the
20 names within 10 days after the date the commission is notified of
21 the vacancy. If fewer than three names remain on the eligibility
22 list or if only one or two eligible promotional candidates passed
23 the promotional examination, each name on the list must be
24 submitted to the sheriff.

25 (c) The commission shall submit names from an existing
26 eligibility list to the sheriff until the vacancy is filled or the
27 list is exhausted.

1 (d) If an eligibility list does not exist on the date a
2 vacancy occurs or a new position is created, the commission shall
3 hold an examination to create a new eligibility list within 90 days
4 after the date the vacancy occurs or a new position is created.

5 (e) If an eligibility list exists on the date a vacancy
6 occurs, the sheriff shall fill the vacancy by permanent appointment
7 from the eligibility list furnished by the commission within 60
8 days after the date the vacancy occurs. If an eligibility list does
9 not exist, the sheriff shall fill the vacancy by permanent
10 appointment from an eligibility list that the commission shall
11 provide within 90 days after the date the vacancy occurs.

12 (f) Unless the sheriff has a valid reason for not appointing
13 the person, the sheriff shall appoint the eligible promotional
14 candidate having the highest grade on the eligibility list. If the
15 sheriff has a valid reason for not appointing the eligible
16 promotional candidate having the highest grade, the sheriff shall
17 personally discuss the reason with the person being bypassed before
18 appointing another person. The sheriff shall also file the reason
19 in writing with the commission and shall provide the person with a
20 copy of the written notice. The bypassed promotional candidate may
21 appeal the decision in accordance with Section 158.037.

22 (g) If a person is bypassed, the person's name is returned
23 to its place on the eligibility list and shall be resubmitted to the
24 sheriff if another vacancy occurs. If the sheriff refuses three
25 times to appoint a person, files the reasons for the refusals in
26 writing with the commission, and the commission does not set aside
27 the refusals, the person's name shall be removed from the

1 eligibility list.

2 (h) Each promotional eligibility list remains in existence
3 for one year after the date on which the written examination is
4 given, unless exhausted. At the expiration of the one-year period,
5 the eligibility list expires and a new examination may be held.

6 Sec. 158.047. TEMPORARY DUTIES IN HIGHER CLASSIFICATION.

7 (a) When a vacancy occurs, the sheriff may designate a person from
8 the next lower classification to temporarily fill a position in a
9 higher classification. The designated person is entitled to the
10 base salary of the higher position plus the person's own longevity
11 or seniority pay, educational incentive pay, if any, and
12 certification pay, if any, during the time the person performs the
13 duties.

14 (b) The temporary performance of the duties of a higher
15 position by a person who has not been promoted as prescribed by this
16 chapter may not be construed as a promotion.

17 Sec. 158.048. LEAVES OF ABSENCE; RESTRICTION PROHIBITED.

18 (a) If a sufficient number of employees are available to carry out
19 the normal functions of the department, an employee may not be
20 refused a reasonable leave of absence without pay to attend a
21 school, convention, or meeting if the purpose of the school,
22 convention, or meeting is to secure a more efficient department and
23 better working conditions for department personnel.

24 (b) A rule that affects an employee's constitutional right
25 to appear before or to petition the legislature may not be adopted.

26 Sec. 158.049. MILITARY LEAVE OF ABSENCE. (a) On written
27 application of an employee, the commission shall grant the person a

1 military leave of absence without pay, notwithstanding Section
2 158.050, to enable the person to enter a branch of the United States
3 military service. The leave of absence may not exceed the period of
4 compulsory military service or the basic minimum enlistment period
5 for the branch of service the employee enters.

6 (b) The commission shall grant to an employee a leave of
7 absence for initial training or annual duty in the military
8 reserves or the national guard.

9 (c) While an employee serves in the military, the commission
10 shall fill the person's position in the department in accordance
11 with this subchapter. The employee who fills the position is
12 subject to replacement by the person who received the military
13 leave at the time the person returns to active duty in the
14 department.

15 (d) On termination of active military service, an employee
16 who received a military leave of absence under this section is
17 entitled to be reinstated to the position that the person held in
18 the department at the time the leave of absence was granted if the
19 person:

20 (1) receives an honorable discharge;
21 (2) remains physically and mentally fit to discharge
22 the duties of that position; and

23 (3) makes an application for reinstatement within 90
24 days after the date the person is discharged from military service.

25 (e) On reinstatement, the employee shall receive full
26 seniority credit for the time spent in the military service.

27 (f) If the reinstatement of an employee causes that person's

1 replacement to be returned to a lower position in grade or
2 compensation, the replaced person has a preferential right to a
3 subsequent appointment or promotion to the same or a similar
4 position from which the person was demoted. This preferential
5 right has priority over an eligibility list and is subject to the
6 replaced person remaining physically and mentally fit to discharge
7 the duties of that position.

8 (g) If an employee is called to active military duty for any
9 period, the county must continue to maintain any health, dental, or
10 life insurance coverage and any health or dental benefits coverage
11 that the employee received from the county on the date the employee
12 was called to active military duty until the county receives
13 written instructions from the employee to change or discontinue the
14 coverage.

15 (h) In addition to other procedures prescribed by this
16 section, an employee may, without restriction as to the amount of
17 time, voluntarily substitute for another employee who has been
18 called to active federal military duty for a period expected to last
19 12 months or longer. An employee who voluntarily substitutes under
20 this subsection must be qualified to perform the duties of the
21 absent employee.

22 Sec. 158.050. MILITARY LEAVE TIME ACCOUNTS. (a) A county
23 shall maintain a military leave time account for the sheriff's
24 department.

25 (b) A military leave time account shall benefit an employee
26 who:

27 (1) is a member of the Texas National Guard or the

1 armed forces reserves of the United States;

2 (2) was called to active federal military duty while
3 serving as an employee for the sheriff's department;

4 (3) has served on active duty for a period of at least
5 12 continuous months; and

6 (4) has exhausted the balance of the person's
7 vacation, holiday, and compensatory leave time accumulations.

8 (c) An employee may donate any amount of accumulated
9 vacation, holiday, sick, or compensatory leave time to the military
10 leave time account in the department to help provide salary
11 continuation for employees who qualify as eligible beneficiaries of
12 the account under Subsection (b). An employee who wishes to donate
13 time to an account under this section must authorize the donation in
14 writing on a form provided by the department and approved by the
15 county.

16 (d) A county shall equally distribute the leave time donated
17 to a military leave time account among all employees who are
18 eligible beneficiaries of the account. The county shall credit and
19 debit the applicable military leave time account on an hourly basis
20 regardless of the cash value of the time donated or used.

21 Sec. 158.051. LINE OF DUTY ILLNESS OR INJURY LEAVE OF
22 ABSENCE. (a) A county shall provide to an employee a leave of
23 absence for an illness or injury related to the person's activities
24 performed in the line of duty. The leave is with full pay for a
25 period commensurate with the nature of the line of duty illness or
26 injury. If necessary, the leave shall continue for at least one
27 year.

1 (b) At the end of the one-year period, the county's
2 governing body may extend the line of duty illness or injury leave
3 at full or reduced pay. If the employee's leave is not extended or
4 the person's salary is reduced below 60 percent of the person's
5 regular monthly salary, and the person is a member of a pension
6 fund, the person may retire on pension until the person is able to
7 return to duty.

8 (c) If pension benefits are not available to an employee who
9 is temporarily disabled by a line of duty injury or illness and if
10 the year at full pay and any extensions granted by the governing
11 body have expired, the employee may use accumulated sick leave,
12 vacation time, and other accumulated time before the person is
13 placed on temporary leave.

14 (d) If an employee is temporarily disabled by an injury or
15 illness that is not related to activities performed in the person's
16 line of duty, the person may use all sick leave, vacation time, and
17 other accumulated time before the person is placed on temporary
18 leave.

19 (e) After recovery from a temporary disability, an employee
20 shall be reinstated at the same rank and with the same seniority the
21 person had before going on temporary leave.

22 (f) While an employee who is temporarily disabled is on
23 leave, another employee may voluntarily do the work of the employee
24 who is temporarily disabled or donate leave time to maintain the
25 salary for the employee who is temporarily disabled until the
26 person returns to duty.

27 Sec. 158.052. REAPPOINTMENT AFTER RECOVERY FROM

1 DISABILITY. With the commission's approval and if otherwise
2 qualified, an employee who has been certified by a physician
3 selected by a pension fund as having recovered from a disability for
4 which the person has been receiving a monthly disability pension is
5 eligible for reappointment to the classified position that the
6 person held on the date the person qualified for the monthly
7 disability pension.

8 Sec. 158.053. PERSONNEL FILE. (a) The commission or the
9 commission's designee shall maintain a personnel file on each
10 employee. The personnel file must contain any letter, memorandum,
11 or document relating to:

12 (1) a commendation, congratulation, or honor bestowed
13 on the employee by a member of the public or by the department for an
14 action, duty, or activity that relates to the person's official
15 duties;

16 (2) any misconduct by the employee if the letter,
17 memorandum, or document is from the department and if the
18 misconduct resulted in disciplinary action by the employing
19 department in accordance with this subchapter; and

20 (3) the periodic evaluation of the employee by a
21 supervisor.

22 (b) A letter, memorandum, or document relating to alleged
23 misconduct by the employee may not be placed in the person's
24 personnel file if the department determines that there is
25 insufficient evidence to sustain the charge of misconduct.

26 (c) A letter, memorandum, or document relating to
27 disciplinary action taken against the employee or to alleged

1 misconduct by the employee that is placed in the person's personnel
2 file as provided by Subsection (a)(2) shall be removed from the
3 employee's file if the commission finds that:

4 (1) the disciplinary action was taken without just
5 cause; or

6 (2) the charge of misconduct was not supported by
7 sufficient evidence.

8 (d) If a negative letter, memorandum, document, or other
9 notation of negative impact is included in an employee's personnel
10 file, the commission or the commission's designee shall, within 30
11 days after the date of the inclusion, notify the affected employee.
12 The employee may, on or before the 15th day after the date of
13 receipt of the notification, file a written response to the
14 negative letter, memorandum, document, or other notation.

15 (e) The employee is entitled, on request, to a copy of any
16 letter, memorandum, or document placed in the person's personnel
17 file. The county may charge the employee a reasonable fee not to
18 exceed the actual cost for any copies provided under this
19 subsection.

20 (f) The commission or the commission's designee may not
21 release any information contained in an employee's personnel file
22 without first obtaining the person's written permission, unless the
23 release of the information is required by law.

24 (g) The department may maintain a personnel file on an
25 employee for the department's use, but the department may not
26 release any information contained in the department file to any
27 agency or person requesting information relating to the employee.

1 The department shall refer to the commission or the commission's
2 designee a person or agency that requests information that is
3 maintained in the employee's personnel file.

4 Sec. 158.054. INVESTIGATION OF EMPLOYEES. (a) In this
5 section:

6 (1) "Complainant" means a person claiming to be the
7 victim of misconduct by an employee.

8 (2) "Investigation" means an administrative
9 investigation, conducted by the county, of alleged misconduct by an
10 employee that could result in punitive action against that person.

11 (3) "Investigator" means an agent or employee of the
12 county who is assigned to conduct an investigation.

13 (4) "Normally assigned working hours" includes those
14 hours during which an employee is actually at work or at the
15 person's assigned place of work, but does not include any time when
16 the person is off duty on authorized leave, including sick leave.

17 (5) "Punitive action" means a disciplinary
18 suspension, indefinite suspension, demotion in rank, reprimand, or
19 any combination of those actions.

20 (b) An investigator may interrogate an employee who is the
21 subject of an investigation only during the employee's normally
22 assigned working hours unless:

23 (1) the seriousness of the investigation, as
24 determined by the sheriff or the sheriff's designee, requires
25 interrogation at another time; and

26 (2) the employee is compensated for the interrogation
27 time on an overtime basis.

1 (c) The sheriff may not consider work time missed from
2 regular duties by an employee due to participation in the conduct of
3 an investigation in determining whether to impose a punitive action
4 or in determining the severity of a punitive action.

5 (d) An investigator may not interrogate an employee who is
6 the subject of an investigation or conduct any part of the
7 investigation at that person's home without that person's
8 permission.

9 (e) A person may not be assigned to conduct an investigation
10 if the person is the complainant, the ultimate decision maker
11 regarding disciplinary action, or a person who has any personal
12 involvement regarding the alleged misconduct. An employee who is
13 the subject of an investigation has the right to inquire and, on
14 inquiry, to be informed of the identities of each investigator
15 participating in an interrogation of the employee.

16 (f) Before an investigator may interrogate an employee who
17 is the subject of an investigation, the investigator must inform
18 the employee in writing of the nature of the investigation and the
19 name of each person who complained about the employee concerning
20 the matters under investigation. An investigator may not conduct
21 an interrogation of an employee based on a complaint by a
22 complainant who is not a peace officer unless the complainant
23 verifies the complaint in writing before a public officer who is
24 authorized by law to take statements under oath. In an
25 investigation authorized under this subsection, an investigator
26 may interrogate an employee about events or conduct reported by a
27 witness who is not a complainant without disclosing the name of the

1 witness. Not later than the 48th hour before the hour on which an
2 investigator begins to interrogate an employee regarding an
3 allegation based on a complaint, affidavit, or statement, the
4 investigator shall give the employee a copy of the affidavit,
5 complaint, or statement. An interrogation may be based on a
6 complaint from an anonymous complainant if the departmental
7 employee receiving the anonymous complaint certifies in writing,
8 under oath, that the complaint was anonymous. This subsection does
9 not apply to an on-the-scene investigation that occurs immediately
10 after an incident being investigated if the limitations of this
11 subsection would unreasonably hinder the essential purpose of the
12 investigation or interrogation. If the limitation would hinder the
13 investigation or interrogation, the employee under investigation
14 must be furnished, as soon as practicable, a written statement of
15 the nature of the investigation, the name of each complaining
16 party, and the complaint, affidavit, or statement.

17 (g) An interrogation session of an employee who is the
18 subject of an investigation may not be unreasonably long. In
19 determining reasonableness, the gravity and complexity of the
20 investigation must be considered. The investigators shall allow
21 reasonable interruptions to permit the employee to attend to
22 personal physical necessities.

23 (h) An investigator may not threaten an employee who is the
24 subject of an investigation with punitive action during an
25 interrogation. However, an investigator may inform an employee
26 that failure to truthfully answer reasonable questions directly
27 related to the investigation or to fully cooperate in the conduct of

1 the investigation may result in punitive action.

2 (i) If prior notification of intent to record an
3 interrogation is given to the other party, either the investigator
4 or the employee who is the subject of an interrogation may record
5 the interrogation.

6 (j) If an investigation does not result in punitive action
7 against an employee but does result in a reprimand recorded in
8 writing or an adverse finding or determination regarding that
9 person, the reprimand, finding, or determination may not be placed
10 in that person's personnel file unless the employee is first given
11 an opportunity to read and sign the document. If the employee
12 refuses to sign the reprimand, finding, or determination, it may be
13 placed in the personnel file with a notation that the person refused
14 to sign it. An employee may respond in writing to a reprimand,
15 finding, or determination that is placed in the person's personnel
16 file under this subsection by submitting a written response to the
17 commission within 10 days after the date the employee is asked to
18 sign the document. The response must be placed in the personnel
19 file. An employee who receives a punitive action and who elects not
20 to appeal the action may file a written response as prescribed by
21 this subsection within 10 days after the date the person is given
22 written notice of the punitive action from the sheriff.

23 (k) If the sheriff or any investigator violates any of the
24 provisions of this section while conducting an investigation, the
25 commission shall reverse any punitive action taken pursuant to the
26 investigation, including a reprimand, and any information obtained
27 during the investigation shall be specifically excluded from

1 introduction into evidence in any proceeding against the employee.

2 Sec. 158.055. GRIEVANCE PROCEDURE. (a) An employee may
3 file a grievance as provided by this subchapter. The employee may
4 file a grievance that relates to the person's employment, including
5 matters relating to a written or oral reprimand, transfers, job
6 performance reviews, and job assignments. The employee may not
7 file a grievance relating to:

8 (1) a disciplinary suspension, indefinite suspension,
9 promotional pass over, or demotion or other action or decision for
10 which a hearing, review, or appeal is otherwise provided by this
11 subchapter; or

12 (2) an allegation of discrimination based, in whole or
13 in part, on race, color, religion, sex, or national origin.

14 (b) The commission shall monitor and assist the operation of
15 the grievance procedure. The commission's duties include:

16 (1) aiding the department and departmental grievance
17 counselors;

18 (2) notifying the parties of meetings;

19 (3) docketing cases before the grievance examiner; and

20 (4) ensuring that the grievance procedure operates
21 timely and effectively.

22 (c) The sheriff shall appoint from among the members of the
23 department a grievance counselor whose duties include:

24 (1) providing appropriate grievance forms to an
25 employee;

26 (2) accepting, on behalf of the sheriff, a step I or II
27 grievance;

1 (3) assisting the employee in handling the grievance;

2 (4) forwarding a copy of a step I or II grievance form
3 to the commission and notifying the sheriff;

4 (5) arranging a meeting between the employee and that
5 person's immediate supervisor as prescribed by Section 158.056(b);

6 (6) arranging a meeting described by Section
7 158.057(b); and

8 (7) performing other duties that the sheriff may
9 assign.

10 (d) The grievance procedure consists of four steps. In any
11 step of the grievance process in which the aggrieved employee's
12 immediate supervisor is included, the sheriff or the departmental
13 grievance counselor may add an appropriate supervisor who is not
14 the employee's immediate supervisor or may designate that
15 supervisor to replace the person's immediate supervisor, if the
16 sheriff or grievance counselor determines that the other supervisor
17 has the authority to resolve the person's grievance.

18 Sec. 158.056. STEP I GRIEVANCE PROCEDURE. (a) To begin a
19 grievance action, an employee must file a completed written step I
20 grievance form with the departmental grievance counselor within 30
21 days after the date the action or inaction for which the person
22 feels aggrieved occurred. A step I grievance form may be obtained
23 from the departmental grievance counselor. If the form is not
24 timely filed, the grievance is waived.

25 (b) If the step I grievance form is timely filed under
26 Subsection (a), the departmental grievance counselor shall arrange
27 a meeting of the employee, that person's immediate supervisor or

1 other appropriate supervisor or both, and the person or persons
2 against whom the grievance is lodged. The departmental grievance
3 counselor shall schedule the step I meeting within 30 calendar days
4 after the date the form is filed. If the grievance is lodged against
5 the sheriff, the sheriff may send a representative.

6 (c) The employee's immediate supervisor or other
7 appropriate supervisor, or both, shall fully, candidly, and openly
8 discuss the grievance with the employee in a sincere attempt to
9 resolve it.

10 (d) Regardless of the outcome of the meeting, the employee's
11 immediate supervisor or other appropriate supervisor, or both,
12 shall provide a written response to the employee, with a copy to the
13 grievance counselor, within 15 calendar days after the date the
14 meeting occurs. The response must include the supervisor's
15 evaluation and proposed solution. The response shall either be
16 personally delivered to the employee or be mailed by certified
17 mail, return receipt requested, to the last home address provided
18 by that person.

19 (e) If the proposed solution is not acceptable, the employee
20 may file a step II grievance form with the departmental grievance
21 counselor in accordance with Section 158.057. If the aggrieved
22 employee fails to timely file a step II grievance form, the solution
23 is considered accepted.

24 Sec. 158.057. STEP II GRIEVANCE PROCEDURE. (a) To continue
25 the grievance procedure, the employee must complete a step II
26 grievance form and file it with the sheriff or the departmental
27 grievance counselor within 15 calendar days after the date the

1 employee receives the supervisor's response under Section 158.056.

2 (b) If the step II grievance form is timely filed under
3 Subsection (a), the departmental grievance counselor shall arrange
4 a meeting of the employee, that person's immediate supervisor or
5 other appropriate supervisor or both, and the sheriff or the
6 sheriff's representative who must have a rank of at least captain or
7 the equivalent. The meeting shall be held within 15 calendar days
8 after the date the form is filed.

9 (c) Regardless of the outcome of the meeting, the sheriff or
10 the sheriff's representative shall provide a written response to
11 the employee within 15 calendar days after the date the meeting
12 occurs. The response shall either be personally delivered to the
13 employee or be mailed by certified mail, return receipt requested,
14 to the last home address provided by that person.

15 (d) If the proposed solution is not acceptable, the employee
16 may either submit a written request stating the person's decision
17 to appeal to an independent third-party hearing examiner pursuant
18 to the provisions of Section 158.0373 or file a step III grievance
19 form with the director in accordance with Section 158.058. If the
20 employee fails to timely file a step III grievance form or a written
21 request to appeal to a hearing examiner, the solution is considered
22 accepted. Notwithstanding Section 158.0373(i), if the employee
23 prevails and the hearing examiner upholds the grievance in its
24 entirety, the department shall bear the cost of the appeal to the
25 hearing examiner. If the employee fails to prevail and the hearing
26 examiner denies the grievance in its entirety, the employee shall
27 bear the cost of the appeal to the hearing examiner. If neither

1 party entirely prevails and the hearing examiner upholds part of
2 the grievance and denies part of it, the hearing examiner's fees and
3 expenses shall be shared equally by the employee and the
4 department.

5 Sec. 158.058. STEP III GRIEVANCE PROCEDURE. (a) To
6 continue the grievance procedure, an employee who did not appeal to
7 a hearing examiner under Section 158.057(d) must complete a step
8 III grievance form and file it with the commission within 15
9 calendar days after the date the employee receives the sheriff's
10 response under Section 158.057.

11 (b) If the step III grievance form is timely filed under
12 Subsection (a), the commission shall arrange a hearing of the
13 employee and a grievance examiner to be appointed by the commission
14 under Section 158.060. The hearing shall be held within 15 of the
15 aggrieved employee's working days after the date the form is filed.

16 (c) A hearing shall be conducted as an informal
17 administrative procedure. Grievances arising out of the same or
18 similar fact situations may be heard at the same hearing. A court
19 reporter shall record the hearing. All witnesses shall be examined
20 under oath. The employee, the employee's immediate supervisor or
21 other appropriate supervisor or both, the sheriff or the sheriff's
22 designated representative or both, and each person specifically
23 named in the grievance are parties to the hearing. The burden of
24 proof is on the aggrieved employee.

25 (d) The grievance examiner shall make written findings and a
26 recommendation for solution of the grievance within 15 calendar
27 days after the date the hearing ends. The findings and

1 recommendation shall be given to the commission and copies mailed
2 to the employee by certified mail, return receipt requested, at the
3 last home address provided by that person, and to the sheriff.

4 (e) If the proposed solution is not acceptable to either the
5 employee or the sheriff, either party may file a step IV grievance
6 form with the commission in accordance with Section 158.059. If the
7 employee or the sheriff fails to timely file a step IV grievance
8 form, the solution is considered accepted by that person.

9 Sec. 158.059. STEP IV GRIEVANCE PROCEDURE. (a) If the
10 sheriff or the employee rejects the proposed solution under Section
11 158.058, the sheriff, the sheriff's designated representative, or
12 the employee must complete a step IV grievance form and file it with
13 the commission within 15 calendar days after the date the person
14 receives the grievance examiner's recommendation.

15 (b) The commission shall review the grievance examiner's
16 findings and recommendation and consider the transcript of the step
17 III hearing at the commission's next regularly scheduled meeting or
18 as soon as practicable. The transcript shall be filed within 30
19 days of the step IV grievance being filed. The commission may for
20 good cause shown grant a reasonable delay not to exceed 30 days to
21 file the transcript. In no event may the commission render a
22 decision later than 30 days after the date the transcript is filed.
23 If the commission does not render a decision within 30 days after
24 the date the transcript is filed, the commission shall sustain the
25 employee's grievance.

26 (c) The commission shall base its decision solely on the
27 transcript and demonstrative evidence offered and accepted at the

1 step III hearing. The commission shall furnish a written copy of
2 the order containing its decision to the employee, the sheriff, and
3 the grievance examiner. The copy to the employee shall be mailed by
4 certified mail, return receipt requested, to the last home address
5 provided by that person. The commission decision is final.

6 Sec. 158.060. GRIEVANCE EXAMINER. (a) The commission
7 shall appoint a grievance examiner by a majority vote. The
8 commission may appoint more than one grievance examiner if
9 necessary. The commission may appoint a different grievance
10 examiner for each grievance. An examiner may not be affiliated with
11 any other department and is responsible only to the commission. The
12 commission shall pay an examiner from a special budget established
13 for this purpose, and shall provide an examiner sufficient office
14 space and clerical support.

15 (b) The grievance examiner may:

16 (1) impose a reasonable limit on the time allowed each
17 party and the number of witnesses to be heard;

18 (2) administer oaths;

19 (3) examine a witness under oath;

20 (4) subpoena and require the attendance of witnesses
21 or the production of documents, books, or other pertinent material;
22 and

23 (5) accept affidavits instead of or in addition to
24 live testimony.

25 Sec. 158.061. SPECIAL PROVISIONS FOR STEPS I AND II. (a)
26 If the aggrieved employee's immediate supervisor is the sheriff,
27 the steps prescribed by Sections 158.056 and 158.057 are combined.

1 The sheriff shall meet with the aggrieved employee and may not
2 appoint a representative.

3 (b) A sheriff, with the approval of the commission, may
4 change the procedure prescribed by Sections 158.056 and 158.057 to
5 reflect a change in a department's chain of command.

6 Sec. 158.062. MISCELLANEOUS GRIEVANCE PROVISIONS. (a) An
7 employee may, but is not required to, obtain a representative at any
8 time during the grievance procedure. The county is not obligated to
9 provide or pay the costs of providing representation. The
10 representative:

11 (1) is not required to be an attorney;
12 (2) is entitled to be present to advise the employee;
13 (3) is entitled to present any evidence or information
14 for the employee; and

15 (4) may not be prevented from fully participating in
16 any of the grievance proceedings.

17 (b) An employee may take reasonable time off from a job
18 assignment to file a grievance and attend a meeting or hearing.
19 Time taken to pursue a grievance may not be charged against that
20 person. The employee shall be compensated on an overtime basis for
21 the time that person spends at a grievance meeting or hearing if:

22 (1) the meeting or hearing is scheduled at a time other
23 than that person's normally assigned working hours; and

24 (2) that person prevails in the grievance.

25 (c) If notice that a grievance meeting or hearing is to be
26 recorded is provided to all persons present at the meeting or
27 hearing, the employee, the sheriff, or the sheriff's designee may

1 record the meeting or hearing.

2 (d) The commission shall provide a suitable notice
3 explaining the grievance procedure prescribed by this subchapter
4 and furnish copies to the department. The notice shall be posted in
5 a prominent place or places within the department work areas to give
6 reasonable notice of the grievance procedure to each member of the
7 department.

8 (e) At the request of the sheriff or an employee who has
9 filed a grievance under this subchapter, the county's legal
10 department or the commission shall assist in resolving the
11 grievance.

12 (f) The commission is the official final custodian of all
13 records involving grievances. A depository for closed files
14 regarding grievances shall be maintained by the commission.

15 (g) An employee who files a grievance pursuant to Sections
16 158.055 through 158.062 is entitled to 48 hours notice of any
17 meeting or hearing scheduled under Section 158.056(b), 158.057(b),
18 158.058(b), or 158.059(b). In the event that the employee is not
19 given 48 hours advance notice, the employee's grievance shall be
20 automatically sustained and no further action may be had on the
21 grievance.

22 (h) If the decision of the commission under Section 158.059
23 or the decision of a hearing examiner under Section 158.057 that has
24 become final is favorable to an employee, the sheriff shall
25 implement the relief granted to the employee not later than the 10th
26 day after the date on which the decision was issued. If the sheriff
27 intentionally fails to implement the relief within the 10-day

1 period, the county shall pay the employee \$1,000 for each day after
2 the 10-day period that the decision is not yet implemented.

3 SECTION 5. This Act takes effect immediately if it receives
4 a vote of two-thirds of all the members elected to each house, as
5 provided by Section 39, Article III, Texas Constitution. If this
6 Act does not receive the vote necessary for immediate effect, this
7 Act takes effect September 1, 2007.