

By: Whitmire

S.B. No. 740

A BILL TO BE ENTITLED

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AN ACT

relating to personnel records of commissioned officers of the Department of Public Safety of the State of Texas.

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

SECTION 1. Subchapter A, Chapter 411, Government Code, is amended by adding Section 411.00755 to read as follows:

Sec. 411.00755. PERSONNEL RECORDS OF COMMISSIONED OFFICERS. (a) In this section:

(1) "Personnel record" includes any letter, memorandum, or document maintained by the department that relates to a commissioned officer of the department, including background investigations, employment applications, employment contracts, service and training records, requests for off-duty employment, birth records, reference letters, letters of recommendation, performance evaluations and counseling records, results of physical tests, polygraph questionnaires and results, proficiency tests, the results of health examinations and other medical records, workers' compensation files, the results of psychological examinations, leave requests, requests for transfers of shift or duty assignments, commendations, promotional processes, demotions, complaints and complaint investigations, employment-related grievances, and school transcripts.

(2) "Disciplinary action" has the meaning assigned by Section 411.0072(a)(1).

1           (b) Notwithstanding Chapter 552, the personnel records of a  
2 commissioned officer of the department may not be disclosed or  
3 otherwise made available to the public, except the department shall  
4 release:

5           (1) any letter, memorandum, or document relating to:

6                   (A) a commendation, congratulation, or honor  
7 bestowed on the officer for an action, duty, or activity that  
8 relates to the officer's official duties; and

9                   (B) misconduct by the officer, if the letter,  
10 memorandum, or document resulted in disciplinary action;

11           (2) the state application for employment submitted by  
12 the officer, but not including any attachments to the application;

13           (3) any reference letter submitted by the officer;

14           (4) any letter of recommendation for the officer;

15           (5) any employment contract with the officer;

16           (6) any periodic evaluation of the officer by a  
17 supervisor;

18           (7) any document recording a promotion or demotion of  
19 the officer;

20           (8) any request for leave by the officer;

21           (9) any request by the officer for transfers of shift  
22 or duty assignments;

23           (10) any documents presented to the commission in  
24 connection with a public hearing under Section 411.007(f);

25           (11) the officer's:

26                   (A) name;

27                   (B) age;

1                    (C) dates of employment;

2                    (D) positions held; and

3                    (E) gross salary; and

4                    (12) information about the location of the officer's  
5 department duty assignments.

6                    (c) The department may release any personnel record of a  
7 commissioned officer:

8                    (1) pursuant to a subpoena or court order, including a  
9 discovery order;

10                    (2) for use by the department in an administrative  
11 hearing; or

12                    (3) with the written authorization of the officer who  
13 is the subject of the record.

14                    (d) A release of information under Subsection (c) does not  
15 waive the right to assert in the future that the information is  
16 excepted from required disclosure under this section or other law.

17                    SECTION 2. Subsection (c), Section 411.0072, Government  
18 Code, is amended to read as follows:

19                    (c) The commission shall establish procedures and practices  
20 through which the department will address an employment-related  
21 grievance that include:

22                    (1) a form on which an employee may state an  
23 employment-related grievance and request a specific corrective  
24 action;

25                    (2) time limits for submitting a grievance and for  
26 management to respond to a grievance;

27                    (3) a multilevel process in which an employee's

1 grievance is submitted to the lowest appropriate level of  
2 management, with each subsequent appeal submitted to a higher level  
3 in the chain of command;

4 (4) an assurance that confidentiality of all parties  
5 involved will be maintained, except to the extent that information  
6 is subject to disclosure under Section 411.00755 and Chapter 552  
7 ~~[that is subject to required public disclosure under the public~~  
8 ~~information law, Chapter 552, is released in response to an open~~  
9 ~~records request]~~, and that retaliation against an employee who  
10 files a grievance is prohibited; and

11 (5) a program to advertise and explain the grievance  
12 procedure to all employees.

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