

1-1 By: Whitmire S.B. No. 740
1-2 (In the Senate - Filed February 19, 2007; March 6, 2007,
1-3 read first time and referred to Committee on Criminal Justice;
1-4 March 26, 2007, reported adversely, with favorable Committee
1-5 Substitute by the following vote: Yeas 6, Nays 0; March 26, 2007,
1-6 sent to printer.)

1-7 COMMITTEE SUBSTITUTE FOR S.B. No. 740 By: Whitmire

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

1-10 relating to personnel records of commissioned officers of the
1-11 Department of Public Safety of the State of Texas.

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

1-13 SECTION 1. Subchapter A, Chapter 411, Government Code, is
1-14 amended by adding Section 411.00755 to read as follows:

1-15 Sec. 411.00755. PERSONNEL RECORDS OF COMMISSIONED
1-16 OFFICERS. (a) In this section:

1-17 (1) "Personnel record" includes any letter,
1-18 memorandum, or document maintained by the department that relates
1-19 to a commissioned officer of the department, including background
1-20 investigations, employment applications, employment contracts,
1-21 service and training records, requests for off-duty employment,
1-22 birth records, reference letters, letters of recommendation,
1-23 performance evaluations and counseling records, results of
1-24 physical tests, polygraph questionnaires and results, proficiency
1-25 tests, the results of health examinations and other medical
1-26 records, workers' compensation files, the results of psychological
1-27 examinations, leave requests, requests for transfers of shift or
1-28 duty assignments, commendations, promotional processes, demotions,
1-29 complaints and complaint investigations, employment-related
1-30 grievances, and school transcripts.

1-31 (2) "Disciplinary action" has the meaning assigned by
1-32 Section 411.0072(a)(1).

1-33 (b) Notwithstanding Chapter 552, the personnel records of a
1-34 commissioned officer of the department may not be disclosed or
1-35 otherwise made available to the public, except the department shall
1-36 release:

1-37 (1) any letter, memorandum, or document relating to:

1-38 (A) a commendation, congratulation, or honor
1-39 bestowed on the officer for an action, duty, or activity that
1-40 relates to the officer's official duties; and

1-41 (B) misconduct by the officer, if the letter,
1-42 memorandum, or document resulted in disciplinary action;

1-43 (2) the state application for employment submitted by
1-44 the officer, but not including any attachments to the application;

1-45 (3) any reference letter submitted by the officer;

1-46 (4) any letter of recommendation for the officer;

1-47 (5) any employment contract with the officer;

1-48 (6) any periodic evaluation of the officer by a
1-49 supervisor;

1-50 (7) any document recording a promotion or demotion of
1-51 the officer;

1-52 (8) any request for leave by the officer;

1-53 (9) any request by the officer for transfers of shift
1-54 or duty assignments;

1-55 (10) any documents presented to the commission in
1-56 connection with a public hearing under Section 411.007(f);

1-57 (11) the officer's:

1-58 (A) name;

1-59 (B) age;

1-60 (C) dates of employment;

1-61 (D) positions held; and

1-62 (E) gross salary; and

1-63 (12) information about the location of the officer's

2-1 department duty assignments.

2-2 (c) The department may release any personnel record of a

2-3 commissioned officer:

2-4 (1) pursuant to a subpoena or court order, including a

2-5 discovery order;

2-6 (2) for use by the department in an administrative

2-7 hearing; or

2-8 (3) with the written authorization of the officer who

2-9 is the subject of the record.

2-10 (d) A release of information under Subsection (c) does not

2-11 wave the right to assert in the future that the information is

2-12 excepted from required disclosure under this section or other law.

2-13 SECTION 2. Subsection (c), Section 411.0072, Government

2-14 Code, is amended to read as follows:

2-15 (c) The commission shall establish procedures and practices

2-16 through which the department will address an employment-related

2-17 grievance that include:

2-18 (1) a form on which an employee may state an

2-19 employment-related grievance and request a specific corrective

2-20 action;

2-21 (2) time limits for submitting a grievance and for

2-22 management to respond to a grievance;

2-23 (3) a multilevel process in which an employee's

2-24 grievance is submitted to the lowest appropriate level of

2-25 management, with each subsequent appeal submitted to a higher level

2-26 in the chain of command;

2-27 (4) an assurance that confidentiality of all parties

2-28 involved will be maintained, except to the extent that information

2-29 is subject to disclosure under Section 411.00755 and Chapter 552

2-30 ~~[that is subject to required public disclosure under the public~~

2-31 ~~information law, Chapter 552, is released in response to an open~~

2-32 ~~records request], and that retaliation against an employee who~~

2-33 ~~files a grievance is prohibited; and~~

2-34 (5) a program to advertise and explain the grievance

2-35 procedure to all employees.

2-36 SECTION 3. This Act takes effect immediately if it receives

2-37 a vote of two-thirds of all the members elected to each house, as

2-38 provided by Section 39, Article III, Texas Constitution. If this

2-39 Act does not receive the vote necessary for immediate effect, this

2-40 Act takes effect September 1, 2007.

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