

By: Williams

S.B. No. 1395

A BILL TO BE ENTITLED

AN ACT

1  
2 relating to certain employment records maintained by the Commission  
3 on Law Enforcement Officer Standards and Education; providing an  
4 administrative penalty.

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

6 SECTION 1. Section 1701.451, Occupations Code, is amended  
7 by amending Subsection (a) and adding Subsection (a-1) to read as  
8 follows:

9 (a) Before a law enforcement agency may hire a person  
10 licensed under this chapter, the agency head or the agency head's  
11 designee must:

12 (1) make a written request to the commission for any  
13 employment termination report regarding the person that is  
14 maintained by the commission under this subchapter; and

15 (2) submit to the commission on the form prescribed by  
16 the commission confirmation that the agency:

17 (A) conducted in the manner prescribed by the  
18 commission a criminal background check regarding the person;

19 (B) obtained the person's written consent on a  
20 form prescribed by the commission for the agency to view the  
21 person's employment records;

22 (C) obtained from the commission any service or  
23 education records regarding the person maintained by the  
24 commission; and

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

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

7 SECTION 2. Section 1701.452, Occupations Code, is amended  
8 to read as follows:

9 Sec. 1701.452. EMPLOYMENT TERMINATION REPORT. (a) The  
10 head of a law enforcement agency or the head's designee shall submit  
11 a report to the commission on a form prescribed by the commission  
12 regarding a person licensed under this chapter who resigns or  
13 retires from ~~[the]~~ employment with ~~[of]~~ the law enforcement agency,  
14 ~~[or]~~ whose appointment with the law enforcement agency is  
15 terminated, or who separates from the law enforcement agency for  
16 any other reason. The agency head or the designee shall include in  
17 the report a statement on whether the license holder was honorably  
18 discharged, generally discharged, or dishonorably discharged. For  
19 purposes of this subsection:

20 (1) "Honorably discharged" means:

21 (A) the officer retired in good standing;

22 (B) the officer resigned in good standing to  
23 pursue a non-law enforcement career;

24 (C) the officer resigned in good standing to  
25 pursue a law enforcement career;

26 (D) the officer was killed in the line of duty;

27 (E) the officer died while in good standing with

1 the agency;

2 (F) the officer was disabled while in good  
3 standing and is unable to perform duties;

4 (G) the position was eliminated while the officer  
5 was in good standing;

6 (H) the officer transferred from regular officer  
7 status to reserve officer status;

8 (I) the officer transferred from reserve officer  
9 status to regular officer status;

10 (J) the officer transferred from peace officer to  
11 jailer;

12 (K) the officer transferred from jailer to peace  
13 officer;

14 (L) the officer separated from the agency as a  
15 result of changes in leadership at the law enforcement agency or  
16 local government;

17 (M) the officer separated from the agency  
18 subsequent to loss of a public election; or

19 (N) the officer was terminated at will.

20 (2) "General discharge" means:

21 (A) the officer retired or resigned while under  
22 investigation for an administrative violation after the officer was  
23 advised in writing of the investigation;

24 (B) the officer retired or resigned while under  
25 investigation for a criminal violation after the officer was  
26 advised in writing of the criminal investigation;

27 (C) the officer retired or resigned after

1 receiving notification of pending disciplinary action, including  
2 termination for an administrative violation;

3 (D) the officer failed to complete a field  
4 training program;

5 (E) the officer failed to complete the agency  
6 probation period;

7 (F) the officer failed to complete required  
8 training under commission rules;

9 (G) the officer was constitutionally elected and  
10 failed to complete licensing requirements under commission rules;

11 (H) the officer died while under investigation;

12 (I) the officer retired or resigned through  
13 mutual agreement with the governmental entity and agency; or

14 (J) the officer was terminated for an  
15 administrative violation other than truthfulness or  
16 insubordination.

17 (3) "Dishonorably discharged" means:

18 (A) the officer retired or resigned in lieu of  
19 termination for a criminal offense;

20 (B) the officer was terminated for a criminal  
21 offense after charges were filed;

22 (C) the officer was terminated for a criminal  
23 offense;

24 (D) the officer retired or resigned in lieu of  
25 termination for an administrative violation of truthfulness or  
26 insubordination; or

27 (E) the officer was terminated for an

1 administrative violation of truthfulness or insubordination~~;~~

2 ~~[(1) an explanation of the circumstances under which~~  
3 ~~the person resigned or was terminated, and~~

4 ~~[(2) one of the following designations:~~

5 ~~[(A) retired, which applies only to an officer~~  
6 ~~who:~~

7 ~~[(i) left the agency while in good~~  
8 ~~standing; and~~

9 ~~[(ii) is eligible to collect a pension;~~

10 ~~[(B) honorably discharged, which applies only to~~  
11 ~~an officer who:~~

12 ~~[(i) left the agency while in good standing~~  
13 ~~to pursue other career interests or for personal reasons other than~~  
14 ~~retirement; and~~

15 ~~[(ii) did not leave the agency while under~~  
16 ~~investigation for a criminal violation or while facing disciplinary~~  
17 ~~action, including suspension, demotion, or termination;~~

18 ~~[(C) dishonorably discharged, which applies only~~  
19 ~~to an officer whose employment was terminated for a violation of law~~  
20 ~~or department policy or for other substantiated misconduct;~~

21 ~~[(D) generally discharged, which applies only to~~  
22 ~~an officer who left the agency:~~

23 ~~[(i) for less than honorable reasons but~~  
24 ~~did not leave the agency because of pending or final disciplinary~~  
25 ~~action; or~~

26 ~~[(ii) while under investigation for a~~  
27 ~~potential criminal violation or in lieu of disciplinary action,~~

1 ~~including suspension, demotion, or termination;~~

2 ~~[(E) killed in the line of duty, which applies~~  
3 ~~only to an officer who was killed while performing the officer's~~  
4 ~~duties as a peace officer in or outside this state;~~

5 ~~[(F) died, which applies only to an officer who~~  
6 ~~died for a reason that is not described by Paragraph (E); or~~

7 ~~[(G) disabled, which applies only to an officer~~  
8 ~~who was unable to fulfill the officer's duties as a peace officer~~  
9 ~~because of an injury or illness].~~

10 (b) The head of the law enforcement agency from which a  
11 person resigns, retires, ~~[or]~~ is terminated, or separates for  
12 reasons other than death, or the head's designee, shall provide to  
13 the person a copy of the report. If the person who is the subject of  
14 the employment termination report is deceased, the head of the law  
15 enforcement agency or the head's designee on request shall provide  
16 a copy of the report to the person's next of kin.

17 (c) The head of a law enforcement agency or the head's  
18 designee must submit a report under this section each time a person  
19 licensed under this chapter resigns, retires, ~~[or]~~ is terminated,  
20 or separates for any other reason from the agency. The report is an  
21 official government document.

22 SECTION 3. Subchapter J, Chapter 1701, Occupations Code, is  
23 amended by adding Section 1701.4521 to read as follows:

24 Sec. 1701.4521. LICENSE SUSPENSION FOR OFFICER  
25 DISHONORABLY DISCHARGED. (a) The commission may suspend the  
26 license of an officer on notification that the officer has been  
27 dishonorably discharged.

1       (b) The commission shall suspend the license of an officer  
2 on notification that the officer has been dishonorably discharged  
3 if the officer has previously been dishonorably discharged from  
4 another law enforcement agency.

5       (c) An officer whose license is suspended under this section  
6 may appeal the suspension in writing to the commission not later  
7 than the 30th day after the date the officer is suspended.

8       (d) After a commission determination, the commission may  
9 revoke or reinstate the officer's license in accordance with rules  
10 or procedures adopted by the commission under this chapter related  
11 to revocation or reinstatement of a license. The commission shall  
12 revoke the officer's license if the officer does not appeal the  
13 suspension before the 30th day after the date the officer is  
14 suspended.

15       (e) The commission's decision does not affect:

16               (1) the employment relationship between an officer and  
17 a law enforcement agency; or

18               (2) any disciplinary action taken against an officer  
19 by a law enforcement agency.

20       SECTION 4. The changes in law made by this Act in relation  
21 to employment termination reports apply only to a report under  
22 Subchapter J, Chapter 1701, Occupations Code, as amended by this  
23 Act, regarding a resignation or termination that occurs on or after  
24 the effective date of this Act. An employment termination report  
25 regarding a resignation or termination that occurs before the  
26 effective date of this Act is governed by the law as it existed  
27 immediately before the effective date of this Act, and that law is

1 continued in effect for that purpose.

2 SECTION 5. This Act takes effect September 1, 2007.