

## **BILL ANALYSIS**

C.S.H.B. 640  
By: Zerwas  
County Affairs  
Committee Report (Substituted)

### **BACKGROUND AND PURPOSE**

Current law allows the personnel records of a deputy sheriff to be released to the public under public information laws. Only social security numbers, family information, and addresses are protected from disclosure. Employment information is not available in court proceedings unless found to be relevant by a judge under the rules of criminal procedure. However, it has become common practice for defendants in a court case to obtain personnel records of an arresting officer by making an open records request under public information laws.

C.S.H.B. 640 limits the information in a deputy sheriff's personnel records that is subject to public release to the information specified in the bill. This would be similar to the provisions that protect the personnel records of commissioned Department of Public Safety officers.

### **RULEMAKING AUTHORITY**

It is the committee's opinion that this bill does not expressly grant any additional rulemaking authority to a state officer, department, agency, or institution.

### **ANALYSIS**

C.S.H.B. 640 prohibits a sheriff's department in a county with a population of 300,000 or more from disclosing or otherwise making available to the public the personnel records of a sheriff's deputy except for the following, in accordance with state public information laws:

- any letter, memorandum, or document relating to a commendation, congratulation, or honor bestowed on the deputy for an action, duty, or activity that relates to the deputy's official duties; and misconduct by the deputy, if the letter, memorandum, or document resulted in disciplinary action;
- the application for employment submitted by the deputy, but not including any attachments to the application;
- any reference letter submitted by the deputy;
- any letter of recommendation for the deputy;
- any employment contract with the deputy;
- any periodic evaluation of the deputy by a supervisor;
- any document recording a promotion or demotion of the deputy;
- any request for leave by the deputy;
- any request by the deputy for transfers of shift or duty assignments;
- any documents presented and considered at a public hearing under county civil service statutes;
- the deputy's name, age, dates of employment, positions held, and gross salary; and
- information about the location of the deputy's department duty assignments.

C.S.H.B 640 defines "personnel record" as any letter, memorandum, or document maintained by the sheriff's department that relates to a deputy sheriff, 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.

C.S.H.B. 640 authorizes a sheriff's department to release any personnel record of a deputy pursuant to a subpoena or court order, including a discovery order, for use by the sheriff's department in an administrative hearing, or with the written authorization of the deputy who is the subject of the record. The bill provides that the release of this information does not waive the right to assert in the future that the information is not excepted from required disclosure.

#### **EFFECTIVE DATE**

On passage, or, if the act does not receive the necessary vote, the act takes effect September 1, 2009.

#### **COMPARISON OF ORIGINAL AND SUBSTITUTE**

C.S.H.B. 640 differs from the original by specifying that the release to the public of certain information in a deputy sheriff's personnel records is in accordance with state public information laws, rather than notwithstanding those provisions, as in the original.