

By: Seliger

S.B. No. 545

A BILL TO BE ENTITLED

1 AN ACT  
2 relating to employment records for law enforcement officers,  
3 including procedures to correct employment termination reports;  
4 providing an administrative penalty.

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

6 SECTION 1. Sections 1701.452(a) and (d), Occupations Code,  
7 are amended to read as follows:

8 (a) The head of a law enforcement agency or the head's  
9 designee shall submit a report to the commission on a form  
10 prescribed by the commission regarding a person licensed under this  
11 chapter who resigns or retires from employment with the law  
12 enforcement agency, whose appointment with the law enforcement  
13 agency is terminated, or who separates from the law enforcement  
14 agency for any other reason. The report must be submitted by the  
15 head or the designee not later than the seventh business day after  
16 the date the license holder:

17 (1) resigns, retires, is terminated, or separates from  
18 the agency; and ~~or~~

19 (2) exhausts all administrative appeals available to  
20 the license holder, if applicable [~~if the license holder was~~  
21 ~~terminated based on an allegation of misconduct~~].

22 (d) The head of the law enforcement agency from which a  
23 license holder resigns, retires, is terminated, or separates for  
24 reasons other than death, or the head's designee, shall provide to

1 the license holder a copy of the report. The report must be  
2 provided to the license holder not later than the seventh business  
3 day after the date the license holder:

4 (1) resigns, retires, is terminated, or separates from  
5 the agency; and ~~[or]~~

6 (2) exhausts all administrative appeals available to  
7 the license holder, if applicable ~~[if the license holder was  
8 terminated based on an allegation of misconduct]~~.

9 SECTION 2. The heading to Section 1701.4525, Occupations  
10 Code, is amended to read as follows:

11 Sec. 1701.4525. PETITION ~~[REQUEST]~~ FOR CORRECTION OF  
12 REPORT; HEARING; ADMINISTRATIVE PENALTY ~~[, HEARING, APPEAL]~~.

13 SECTION 3. Section 1701.4525, Occupations Code, is amended  
14 by amending Subsections (a), (d), and (e) and adding Subsection  
15 (e-1) to read as follows:

16 (a) A person who is the subject of an employment termination  
17 report maintained by the commission under this subchapter may  
18 contest information contained in the report by submitting to the  
19 law enforcement agency and to the commission a written petition on a  
20 form prescribed by the commission ~~[request]~~ for a correction of the  
21 report ~~[and any evidence contesting the information contained in~~  
22 ~~the report]~~ not later than the 30th day after the date the person  
23 receives a copy of the report. On receipt of the petition, the  
24 commission shall refer the petition to the State Office of  
25 Administrative Hearings. ~~[The commission shall allow the head of~~  
26 ~~the law enforcement agency to submit to the commission any evidence~~  
27 ~~rebutting the evidence submitted by the person who is the subject of~~

1 ~~the report.]~~

2 (d) A proceeding [~~under Subsection (b)]~~ to contest  
3 information in [the commission's order or under Subsection (c) to  
4 ~~correct]~~ an employment termination report is a contested case under  
5 Chapter 2001, Government Code.

6 (e) In a proceeding [~~under Subsection (b)]~~ to contest  
7 information in [the commission's order or under Subsection (c) to  
8 ~~correct]~~ an employment termination report for a [~~an order or]~~  
9 report based on alleged misconduct, an administrative law judge  
10 shall determine if the alleged misconduct occurred by a  
11 preponderance of the evidence regardless of whether the person who  
12 is the subject of the report was terminated or the person resigned,  
13 retired, or separated in lieu of termination. If the alleged  
14 misconduct is not supported by a preponderance of the evidence, the  
15 administrative law judge shall order the report to be changed.

16 (e-1) The commission may assess an administrative penalty  
17 against an agency head who fails to make a correction to an  
18 employment termination report following an order by the State  
19 Office of Administrative Hearings.

20 SECTION 4. Section 1701.454, Occupations Code, is amended  
21 to read as follows:

22 Sec. 1701.454. CONFIDENTIALITY. (a) All information [~~A~~  
23 ~~report or statement]~~ submitted to the commission under this  
24 subchapter is confidential and is not subject to disclosure under  
25 Chapter 552, Government Code[~~, unless the person resigned or was~~  
26 ~~terminated due to substantiated incidents of excessive force or~~  
27 ~~violations of the law other than traffic offenses)].~~

1 (b) Except as provided by this subchapter, a commission  
2 member or other person may not release information [~~the contents of~~  
3 ~~a report or statement~~] submitted under this subchapter.

4 SECTION 5. Section 1701.455, Occupations Code, is amended  
5 to read as follows:

6 Sec. 1701.455. SUBPOENA. Information [~~A report or~~  
7 ~~statement~~] submitted to the commission under this subchapter is  
8 subject to subpoena only in a judicial proceeding.

9 SECTION 6. Sections 1701.4525(b) and (c), Occupations Code,  
10 are repealed.

11 SECTION 7. (a) The changes in law made by this Act to  
12 Section 1701.452, Occupations Code, apply only to a license holder  
13 who resigns, retires, is terminated, or separates from a law  
14 enforcement agency on or after the effective date of this Act. A  
15 license holder who resigns, retires, is terminated, or separates  
16 from a law enforcement agency before the effective date of this Act  
17 is governed by the law in effect on the date of the resignation,  
18 retirement, termination, or separation, and the former law is  
19 continued in effect for that purpose.

20 (b) The changes in law made by this Act to Section  
21 1701.4525, Occupations Code, apply only to a petition for a  
22 correction of an employment termination report submitted on or  
23 after the effective date of this Act. A request submitted before  
24 the effective date of this Act is governed by the law in effect on  
25 the date the request was submitted, and the former law is continued  
26 in effect for that purpose.

27 SECTION 8. This Act takes effect September 1, 2011.