

By: Thompson of Harris

H.B. No. 2044

A BILL TO BE ENTITLED

1 AN ACT  
2 relating to matters concerning peace officers, including racial  
3 profiling, use of force, equipment, and disciplinary procedures.

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

5 ARTICLE 1. RACIAL PROFILING, EQUIPMENT, AND USE OF FORCE PROVISIONS

6 SECTION 1.01. Effective January 1, 2018, Article 2.132(b),  
7 Code of Criminal Procedure, is amended to read as follows:

8 (b) Each law enforcement agency in this state shall adopt a  
9 detailed written policy on racial profiling. The policy must:

10 (1) clearly define acts constituting racial  
11 profiling;

12 (2) strictly prohibit peace officers employed by the  
13 agency from engaging in racial profiling;

14 (3) implement a process by which an individual may  
15 file a complaint with the agency if the individual believes that a  
16 peace officer employed by the agency has engaged in racial  
17 profiling with respect to the individual;

18 (4) provide public education relating to the agency's  
19 complaint process;

20 (5) require appropriate corrective action to be taken  
21 against a peace officer employed by the agency who, after an  
22 investigation, is shown to have engaged in racial profiling in  
23 violation of the agency's policy adopted under this article;

24 (6) require collection of information relating to

1 motor vehicle stops in which a citation is issued and to arrests  
2 made as a result of those stops, including information relating to:

3 (A) the race or ethnicity of the individual  
4 detained;

5 (B) whether a search was conducted and, if so,  
6 whether:

7 (i) the individual detained consented to  
8 the search; and

9 (ii) any contraband or other evidence was  
10 discovered in the course of the search; and

11 (C) whether the peace officer knew the race or  
12 ethnicity of the individual detained before detaining that  
13 individual; and

14 (7) require the chief administrator of the agency,  
15 regardless of whether the administrator is elected, employed, or  
16 appointed, to submit an annual report of the information collected  
17 under Subdivision (6) to:

18 (A) the Texas Commission on Law Enforcement; and

19 (B) the governing body of each county or  
20 municipality served by the agency, if the agency is an agency of a  
21 county, municipality, or other political subdivision of the state.

22 SECTION 1.02. Effective January 1, 2018, Article 2.134(c),  
23 Code of Criminal Procedure, is amended to read as follows:

24 (c) A report required under Subsection (b) must be submitted  
25 by the chief administrator of the law enforcement agency,  
26 regardless of whether the administrator is elected, employed, or  
27 appointed, and must include:

1 (1) a comparative analysis of the information compiled  
2 under Article 2.133 to:

3 (A) evaluate and compare the number of motor  
4 vehicle stops, within the applicable jurisdiction, of persons who  
5 are recognized as racial or ethnic minorities and persons who are  
6 not recognized as racial or ethnic minorities; and

7 (B) examine the disposition of motor vehicle  
8 stops made by officers employed by the agency, categorized  
9 according to the race or ethnicity of the affected persons, as  
10 appropriate, including any searches resulting from stops within the  
11 applicable jurisdiction and whether contraband or other evidence  
12 was discovered in the course of those searches; and

13 (2) information relating to each complaint filed with  
14 the agency alleging that a peace officer employed by the agency has  
15 engaged in racial profiling.

16 SECTION 1.03. Article 2.137, Code of Criminal Procedure, is  
17 amended to read as follows:

18 Art. 2.137. PROVISION OF FUNDING OR EQUIPMENT. (a) The  
19 Department of Public Safety shall adopt rules for providing funds  
20 or video and audio equipment to law enforcement agencies for the  
21 purpose of installing video and audio equipment as described by  
22 Subsection (a-1) [Article 2.135(a)(1)(A)], including specifying  
23 criteria to prioritize funding or equipment provided to law  
24 enforcement agencies. The criteria may include consideration of  
25 tax effort, financial hardship, available revenue, and budget  
26 surpluses. The criteria must give priority to:

27 (1) law enforcement agencies that employ peace

1 officers whose primary duty is traffic enforcement;

2 (2) smaller jurisdictions; and

3 (3) municipal and county law enforcement agencies.

4 (a-1) Funds or video and audio equipment provided to a law  
5 enforcement agency under this section may only be used to install:

6 (1) video camera and transmitter-activated equipment  
7 in law enforcement motor vehicles regularly used by an officer  
8 employed by the agency to make motor vehicle stops; and

9 (2) transmitter-activated equipment in law  
10 enforcement motorcycles regularly used by an officer employed by  
11 the agency to make motor vehicle stops.

12 (a-2) In this article, "motor vehicle stop" has the meaning  
13 assigned by Article 2.132(a).

14 (b) The Department of Public Safety shall collaborate with  
15 an institution of higher education to identify law enforcement  
16 agencies that need funds or video and audio equipment for the  
17 purpose of installing video and audio equipment as described by  
18 Subsection (a-1) [Article 2.135(a)(1)(A)]. The collaboration may  
19 include the use of a survey to assist in developing criteria to  
20 prioritize funding or equipment provided to law enforcement  
21 agencies.

22 (c) To receive funds or video and audio equipment from the  
23 state for the purpose of installing video and audio equipment as  
24 described by Subsection (a-1) [Article 2.135(a)(1)(A)], the  
25 governing body of a county or municipality, in conjunction with the  
26 law enforcement agency serving the county or municipality, shall  
27 certify to the Department of Public Safety that the law enforcement

1 agency needs funds or video and audio equipment for that purpose.

2 (d) On receipt of funds or video and audio equipment from  
3 the state for the purpose of installing video and audio equipment as  
4 described by Subsection (a-1) [~~Article 2.135(a)(1)(A)~~], the  
5 governing body of a county or municipality, in conjunction with the  
6 law enforcement agency serving the county or municipality, shall  
7 certify to the Department of Public Safety that the law enforcement  
8 agency:

9 (1) has installed video and audio equipment as  
10 described by Subsection (a-1); [~~Article 2.135(a)(1)(A)~~] and

11 (2) is using the equipment to record by video and audio  
12 equipment or audio equipment, as appropriate, each motor vehicle  
13 stop made by an officer employed by the agency that is capable of  
14 being recorded [~~as required by Article 2.135(a)(1)~~].

15 SECTION 1.04. Sections 9.51(a), (b), (c), and (d), Penal  
16 Code, are amended to read as follows:

17 (a) A peace officer, or a person acting in a peace officer's  
18 presence and at the officer's [~~his~~] direction, is justified in  
19 using nonlethal force against another when and to the degree the  
20 actor reasonably believes the force is immediately necessary to  
21 make or assist in making an arrest or search, or to prevent or  
22 assist in preventing escape after arrest, if:

23 (1) the actor reasonably believes the arrest or search  
24 is lawful or, if the arrest or search is made under a warrant, the  
25 actor [~~he~~] reasonably believes the warrant is valid; and

26 (2) before using force, the actor manifests the  
27 actor's [~~his~~] purpose to arrest or search and identifies the actor

1 ~~[himself]~~ as a peace officer or as a person ~~[one]~~ acting at a peace  
2 officer's direction, unless the actor ~~[he]~~ reasonably believes the  
3 actor's ~~[his]~~ purpose and identity are already known by or cannot  
4 reasonably be made known to the person for whom arrest is authorized  
5 ~~[to be arrested]~~.

6 (b) A person who is not ~~[other than]~~ a peace officer [~~←~~] or  
7 ~~[one]~~ acting at a peace officer's ~~[his]~~ direction [~~→~~] is justified  
8 in using nonlethal force against another when and to the degree the  
9 actor reasonably believes the force is immediately necessary to  
10 make or assist in making a lawful arrest, or to prevent or assist in  
11 preventing escape after lawful arrest if, before using force, the  
12 actor manifests the actor's ~~[his]~~ purpose to and the reason for the  
13 arrest or reasonably believes the actor's ~~[his]~~ purpose and the  
14 reason are already known by or cannot reasonably be made known to  
15 the person for whom arrest is authorized ~~[to be arrested]~~.

16 (c) A peace officer is justified in using deadly force  
17 against another when and to the degree the peace officer reasonably  
18 believes the deadly force is immediately necessary to make an  
19 arrest, or to prevent escape after arrest, if the use of force would  
20 have been justified under Subsection (a) and the actor:

21 (1) ~~[the actor reasonably believes the conduct for~~  
22 ~~which arrest is authorized included the use or attempted use of~~  
23 ~~deadly force, or~~

24 [~~(2) the actor~~] reasonably believes [~~there is a~~  
25 ~~substantial risk~~] that the person for whom arrest is authorized  
26 poses an imminent threat of ~~[to be arrested will cause]~~ death or  
27 serious bodily injury to the actor or another; and

1           (2) first attempts to use nonlethal force to make the  
2 arrest or prevent the person's escape, unless the actor reasonably  
3 believes that nonlethal force is insufficient to mitigate the  
4 threat described by Subdivision (1) [~~if the arrest is delayed~~].

5           (d) A person who is not [~~other than~~] a peace officer but is  
6 acting in a peace officer's presence and at the officer's [~~his~~]  
7 direction is justified in using deadly force against another when  
8 and to the degree the person reasonably believes the deadly force is  
9 immediately necessary to make a lawful arrest, or to prevent escape  
10 after a lawful arrest, if the use of force would have been justified  
11 under Subsection (b) and the actor:

12           (1) [~~the actor reasonably believes the felony or~~  
13 ~~offense against the public peace for which arrest is authorized~~  
14 ~~included the use or attempted use of deadly force, or~~

15           [~~(2) the actor~~] reasonably believes [~~there is a~~  
16 ~~substantial risk~~] that the person for whom arrest is authorized  
17 poses an imminent threat of [~~to be arrested will cause~~] death or  
18 serious bodily injury to the actor or another; and

19           (2) first attempts to use nonlethal force to make or  
20 assist in making the arrest or to prevent or assist in preventing  
21 the person's escape, unless the actor reasonably believes that  
22 nonlethal force is insufficient to mitigate the threat described by  
23 Subdivision (1) [~~if the arrest is delayed~~].

24           SECTION 1.05. Effective January 1, 2018, Article [2.135](#),  
25 Code of Criminal Procedure, is repealed.

26           SECTION 1.06. The requirements of Articles [2.132](#) and [2.134](#),  
27 Code of Criminal Procedure, as amended by this article, relating to

1 the compilation, analysis, and submission of incident-based data  
2 apply only to information based on a motor vehicle stop occurring on  
3 or after January 1, 2018.

4 SECTION 1.07. The change in law made by this article to  
5 Section 9.51, Penal Code, applies only to an offense committed on or  
6 after September 1, 2017. An offense committed before September 1,  
7 2017, is governed by the law in effect on the date the offense was  
8 committed, and the former law is continued in effect for that  
9 purpose. For purposes of this section, an offense was committed  
10 before September 1, 2017, if any element of the offense occurred  
11 before that date.

12 ARTICLE 2. DISCIPLINARY PROCEDURES

13 SECTION 2.01. Section 142.067, Local Government Code, is  
14 amended to read as follows:

15 Sec. 142.067. AGREEMENT SUPERSEDES CONFLICTING PROVISIONS.

16 (a) Except as provided by Subsection (b), a [A] written meet and  
17 confer agreement ratified under this subchapter preempts, during  
18 the term of the agreement and to the extent of any conflict, all  
19 contrary state statutes, local ordinances, executive orders, civil  
20 service provisions, or rules adopted by the head of the law  
21 enforcement agency or municipality or by a division or agent of the  
22 municipality, such as a personnel board or a civil service  
23 commission.

24 (b) An agreement under this subchapter may not conflict with  
25 and does not supersede a statute, ordinance, order, civil service  
26 provision, or rule concerning the disciplinary actions that may be  
27 imposed on a police officer. The agreement must implement a



1 progressive disciplinary matrix as described by Section 143.0511.

2 SECTION 2.02. Section 143.003, Local Government Code, is  
3 amended by adding Subdivision (6) to read as follows:

4 (6) "Progressive disciplinary matrix" means a formal  
5 schedule for disciplinary actions established under Section  
6 143.0511.

7 SECTION 2.03. Section 143.008, Local Government Code, is  
8 amended by amending Subsection (c) and adding Subsection (c-1) to  
9 read as follows:

10 (c) The commission shall adopt rules that prescribe cause  
11 for removal or suspension of a fire fighter [~~or police officer~~]. The  
12 rules must comply with the grounds for removal prescribed by  
13 Section 143.051.

14 (c-1) The commission shall adopt rules that prescribe the  
15 disciplinary actions that may be taken against a police officer  
16 under a progressive disciplinary matrix.

17 SECTION 2.04. Section 143.010, Local Government Code, is  
18 amended by amending Subsections (b), (e), and (g) and adding  
19 Subsection (c-1) to read as follows:

20 (b) The appeal must include the basis for the appeal and a  
21 request for a commission hearing. The appeal must also contain a  
22 statement denying the truth of the charge as made, a statement  
23 taking exception to the legal sufficiency of the charge, a  
24 statement alleging that the recommended action does not fit the  
25 offense or alleged offense, or a combination of these statements.

26 An appeal by a police officer for a charge for an incident that  
27 involves an individual who is a member of the public must also

1 include the name and address of the individual.

2 (c-1) Not later than the 30th day before the date of a  
3 commission hearing, the commission shall notify the individual  
4 listed in an appeal by a police officer of the date and time of the  
5 hearing, the individual's right to attend, and instructions for  
6 exercising the individual's rights relating to the hearing. Not  
7 later than the third day before the date of the hearing, a member of  
8 the public, whether listed in the appeal or not, may provide  
9 evidence to the commission, including documentation in support of  
10 an allegation against an officer that is the basis of a disciplinary  
11 action.

12 (e) The affected fire fighter or police officer or an  
13 individual named by the police officer as directly involved in the  
14 incident that is the basis of the disciplinary action may request  
15 the commission to subpoena any books, records, documents, papers,  
16 accounts, or witnesses that the fire fighter, ~~or~~ police officer,  
17 or individual considers pertinent to the case. The fire fighter,  
18 ~~or~~ police officer, or individual must make the request before the  
19 10th day before the date the commission hearing will be held. If  
20 the commission does not subpoena the material, the commission  
21 shall, before the third day before the date the hearing will be  
22 held, make a written report to the fire fighter, ~~or~~ police  
23 officer, or individual stating the reason it will not subpoena the  
24 requested material. This report shall be read into the public  
25 record of the commission hearing.

26 (g) The commission shall conduct the hearing fairly and  
27 impartially as prescribed by this chapter and shall render a just

1 and fair decision. The commission may consider only the evidence  
2 submitted at the hearing and, if applicable, any evidence submitted  
3 by a member of the public under Subsection (c-1).

4 SECTION 2.05. Section 143.031, Local Government Code, is  
5 amended by adding Subsection (d) to read as follows:

6 (d) Notwithstanding any other provision of this section,  
7 the commission may not open a promotional examination to a police  
8 officer who has a sustained complaint of the police officer using  
9 excessive force within:

10 (1) the police officer's period of service, if the  
11 police officer has less than six years of service before the date  
12 the examination is held; or

13 (2) the six-year period immediately before the date  
14 the examination is held, if the police officer has six years or more  
15 of service before that date.

16 SECTION 2.06. Section 143.033, Local Government Code, is  
17 amended by adding Subsection (b-1) to read as follows:

18 (b-1) In accordance with the progressive disciplinary  
19 matrix, points shall be deducted from the promotional examination  
20 grade of a police officer who was the subject of a disciplinary  
21 action within the six years immediately before the examination  
22 date.

23 SECTION 2.07. Section 143.035(b), Local Government Code, is  
24 amended to read as follows:

25 (b) On the recommendation of the head of the police  
26 department and a majority vote of the sworn police officers in the  
27 department, the commission may adopt an alternate promotional

1 system to select persons to occupy nonentry level positions other  
2 than positions that are filled by appointment by the department  
3 head. The promotional system must comply with the requirements  
4 prescribed by this section. In accordance with the progressive  
5 disciplinary matrix, points shall be deducted from the promotional  
6 examination grade of a police officer who was the subject of a  
7 disciplinary action within the six years immediately before the  
8 examination date.

9 SECTION 2.08. Section 143.051, Local Government Code, is  
10 amended to read as follows:

11 Sec. 143.051. CAUSE FOR DISCIPLINARY ACTION [~~REMOVAL OR~~  
12 ~~SUSPENSION~~]. (a) A commission rule prescribing cause for removal or  
13 suspension of a fire fighter [~~or police officer~~] is not valid unless  
14 it involves one or more of the following grounds:

15 (1) conviction of a felony or other crime involving  
16 moral turpitude;

17 (2) violations of a municipal charter provision;

18 (3) acts of incompetency;

19 (4) neglect of duty;

20 (5) discourtesy to the public or to a fellow employee  
21 while the fire fighter [~~or police officer~~] is in the line of duty;

22 (6) acts showing lack of good moral character;

23 (7) drinking intoxicants while on duty or intoxication  
24 while off duty;

25 (8) conduct prejudicial to good order;

26 (9) refusal or neglect to pay just debts;

27 (10) absence without leave;

1           (11) shirking duty or cowardice at fires[~~, if~~  
2 ~~applicable~~]; or

3           (12) violation of an applicable fire [~~or police~~  
4 department rule or special order.

5           (b) A commission rule prescribing cause for taking  
6 disciplinary action against a police officer under a progressive  
7 disciplinary matrix is not valid unless the rule involves one or  
8 more of the following grounds:

9           (1) conviction of a felony or other crime involving  
10 moral turpitude;

11           (2) violations of a municipal charter provision;

12           (3) acts of incompetency;

13           (4) neglect of duty;

14           (5) discourtesy to the public or to a fellow employee  
15 while the police officer is in the line of duty;

16           (6) acts showing lack of good moral character;

17           (7) drinking intoxicants while on duty or intoxication  
18 while off duty;

19           (8) conduct prejudicial to good order, including use  
20 of excessive force against a member of the public;

21           (9) failure to appropriately de-escalate in an  
22 encounter with a member of the public in accordance with police  
23 training;

24           (10) refusal or neglect to pay just debts;

25           (11) absence without leave;

26           (12) shirking duty; or

27           (13) violation of an applicable police department rule

1 or special order.

2 SECTION 2.09. Subchapter D, Chapter 143, Local Government  
3 Code, is amended by adding Section 143.0511 to read as follows:

4 Sec. 143.0511. PROGRESSIVE DISCIPLINARY MATRIX. (a) The  
5 commission shall establish a progressive disciplinary matrix for  
6 infractions committed by police officers that consists of a range  
7 of progressive disciplinary actions applied in a standardized way  
8 based on the nature of the infraction, including removal,  
9 suspension, change of duty or assignment, demotion, deduction of  
10 points from a promotional examination grade, retraining, a written  
11 warning, or a written reprimand.

12 (b) The matrix must include:

13 (1) standards for disciplinary actions relating to the  
14 use of force against another person;

15 (2) standards for evaluating the level of discipline  
16 appropriate for uncommon infractions; and

17 (3) presumptive actions to be taken for each type of  
18 infraction and any adjustment to be made based on a police officer's  
19 previous disciplinary record.

20 SECTION 2.10. Section 143.052, Local Government Code, is  
21 amended to read as follows:

22 Sec. 143.052. DISCIPLINARY SUSPENSIONS OF FIRE FIGHTERS IN  
23 CERTAIN MUNICIPALITIES. (a) This section does not apply to a  
24 municipality with a population of 1.5 million or more.

25 (b) The head of the fire [~~or police~~] department may suspend  
26 a fire fighter [~~or police officer~~] under the department head's  
27 supervision or jurisdiction for the violation of a civil service

1 rule. The suspension may be for a reasonable period not to exceed  
2 15 calendar days or for an indefinite period. An indefinite  
3 suspension is equivalent to dismissal from the department.

4 (c) If the department head suspends a fire fighter [~~or~~  
5 ~~police officer~~], the department head shall, within 120 hours after  
6 the hour of suspension, file a written statement with the  
7 commission giving the reasons for the suspension. The department  
8 head shall immediately deliver a copy of the statement in person to  
9 the suspended fire fighter [~~or police officer~~].

10 (d) The copy of the written statement must inform the  
11 suspended fire fighter [~~or police officer~~] that [~~if the person~~  
12 ~~wants~~] to make an appeal to the commission, the fire fighter  
13 [~~person~~] must file a written appeal with the commission within 10  
14 days after the date the fire fighter [~~person~~] receives the copy of  
15 the statement.

16 (e) The written statement filed by the department head with  
17 the commission must point out each civil service rule alleged to  
18 have been violated by the suspended fire fighter [~~or police~~  
19 ~~officer~~] and must describe the alleged acts of the fire fighter  
20 [~~person~~] that the department head contends are in violation of the  
21 civil service rules. It is not sufficient for the department head  
22 merely to refer to the provisions of the rules alleged to have been  
23 violated.

24 (f) If the department head does not specifically point out  
25 in the written statement the act or acts of the fire fighter [~~or~~  
26 ~~police officer~~] that allegedly violated the civil service rules,  
27 the commission shall promptly reinstate the fire fighter [~~person~~].

1 (g) If offered by the department head, the fire fighter [~~or~~  
2 ~~police officer~~] may agree in writing to voluntarily accept, with no  
3 right of appeal, a suspension of 16 to 90 calendar days for the  
4 violation of a civil service rule. The fire fighter [~~or police~~  
5 ~~officer~~] must accept the offer within five working days after the  
6 date the offer is made. If the fire fighter [~~person~~] refuses the  
7 offer and wants to appeal to the commission, the fire fighter  
8 [~~person~~] must file a written appeal with the commission within 15  
9 days after the date the fire fighter [~~person~~] receives the copy of  
10 the written statement of suspension.

11 (h) In the original written statement and charges and in any  
12 hearing conducted under this chapter, the department head may not  
13 complain of an act that occurred earlier than the 180th day  
14 preceding the date the department head suspends the fire fighter  
15 [~~or police officer~~]. If the act is allegedly related to criminal  
16 activity including the violation of a federal, state, or local law  
17 for which the fire fighter [~~or police officer~~] is subject to a  
18 criminal penalty, the department head may not complain of an act  
19 that is discovered earlier than the 180th day preceding the date the  
20 department head suspends the fire fighter [~~or police officer~~]. The  
21 department head must allege that the act complained of is related to  
22 criminal activity.

23 SECTION 2.11. Subchapter D, Chapter 143, Local Government  
24 Code, is amended by adding Section 143.0521 to read as follows:

25 Sec. 143.0521. DISCIPLINARY SUSPENSIONS OF POLICE  
26 OFFICERS. (a) The head of the police department may suspend a  
27 police officer under the department head's supervision or



1 jurisdiction for the violation of a civil service rule. The  
2 suspension may be for a reasonable period not to exceed 30 calendar  
3 days or for an indefinite period. An indefinite suspension is  
4 equivalent to dismissal from the department.

5 (b) If the department head suspends a police officer, the  
6 department head shall, within 240 hours after the hour of  
7 suspension, file a written statement with the commission giving the  
8 reasons for the suspension. The department head shall immediately  
9 deliver a copy of the statement in person to the suspended police  
10 officer.

11 (c) The copy of the written statement must inform the  
12 suspended police officer that to make an appeal to the commission,  
13 the police officer must file a written appeal with the commission  
14 within 10 days after the date the police officer receives the copy  
15 of the initial statement.

16 (d) The initial written statement filed by the department  
17 head with the commission must point out each civil service rule  
18 alleged to have been violated by the suspended police officer and  
19 must describe the alleged acts of the police officer that the  
20 department head contends are in violation of the civil service  
21 rules. It is not sufficient for the department head merely to refer  
22 to the provisions of the rules alleged to have been violated.

23 (e) If the incident that is the basis of the suspension is  
24 under investigation on the date the initial written statement must  
25 be filed, the department head shall provide the commission an  
26 estimated time needed to complete the investigation and provide the  
27 commission an updated, final statement after the investigation is

1 completed. The commission may not conduct an appeal hearing before  
2 the department head has completed the investigation and provided  
3 the final written statement to the commission. The department head  
4 shall complete the investigation not later than the 180th day after  
5 the date the initial written statement was filed with the  
6 commission. If the investigation is transferred to a civilian  
7 review board, the civilian review board shall complete the  
8 investigation not later than the 270th day after the date the  
9 initial written statement was filed.

10 (f) If the investigation is complete and the department head  
11 does not specify in the final written statement the act or acts of  
12 the police officer that allegedly violated the civil service rules,  
13 the commission shall promptly reinstate the police officer.

14 (g) If offered by the department head, the police officer  
15 may agree in writing to voluntarily accept, with no right of appeal,  
16 a suspension of 16 to 90 calendar days for the violation of a civil  
17 service rule. The police officer must accept the offer within five  
18 working days after the date the offer is made. If the police  
19 officer refuses the offer and wants to appeal to the commission, the  
20 police officer must file a written appeal with the commission not  
21 later than the 15th day after the date the police officer receives  
22 the copy of the initial written statement of suspension.

23 (h) In the written statement and charges and in any hearing  
24 conducted under this chapter, the department head may not complain  
25 of an act that occurred earlier than the 180th day preceding the  
26 date the department head suspends the police officer unless:

27 (1) the act is related to an incident reported under

1 Article 2.139, Code of Criminal Procedure, as added by Section 1,  
2 Chapter 516 (H.B. 1036), Acts of the 84th Legislature, Regular  
3 Session, 2015;

4 (2) the investigation results in criminal charges  
5 within the standard statute of limitations for those charges; or

6 (3) the investigation results in further review by a  
7 civilian oversight system.

8 (i) If the act is allegedly related to criminal activity,  
9 including the violation of a federal, state, or local law for which  
10 the police officer is subject to a criminal penalty, the department  
11 head may not complain of an act that may not be prosecuted because  
12 the statute of limitations has expired. The department head must  
13 allege that the act complained of is related to criminal activity.

14 SECTION 2.12. The heading to Section 143.053, Local  
15 Government Code, is amended to read as follows:

16 Sec. 143.053. APPEAL OF DISCIPLINARY SUSPENSION OF FIRE  
17 FIGHTER IN CERTAIN MUNICIPALITIES.

18 SECTION 2.13. Sections 143.053(b), (e), (f), and (g), Local  
19 Government Code, are amended to read as follows:

20 (b) If a suspended fire fighter [~~or police officer~~] appeals  
21 the suspension to the commission, the commission shall hold a  
22 hearing and render a decision in writing within 30 days after the  
23 date it receives notice of appeal. The suspended fire fighter  
24 [~~person~~] and the commission may agree to postpone the hearing for a  
25 definite period.

26 (e) In its decision, the commission shall state whether the  
27 suspended fire fighter [~~or police officer~~] is:

1           (1) permanently dismissed from the fire [~~or police~~]  
2 department;

3           (2) temporarily suspended from the department; or

4           (3) restored to the fire fighter's [~~person's~~] former  
5 position or status in the department's classified service.

6           (f) If the commission finds that the period of disciplinary  
7 suspension should be reduced, the commission may order a reduction  
8 in the period of suspension. If the suspended fire fighter [~~or~~  
9 ~~police officer~~] is restored to the position or class of service from  
10 which the fire fighter [~~person~~] was suspended, the fire fighter [~~or~~  
11 ~~police officer~~] is entitled to:

12           (1) full compensation for the actual time lost as a  
13 result of the suspension at the rate of pay provided for the  
14 position or class of service from which the fire fighter [~~person~~]  
15 was suspended; and

16           (2) restoration of or credit for any other benefits  
17 lost as a result of the suspension, including sick leave, vacation  
18 leave, and service credit in a retirement system. Standard payroll  
19 deductions, if any, for retirement and other benefits restored  
20 shall be made from the compensation paid, and the municipality  
21 shall make its standard corresponding contributions, if any, to the  
22 retirement system or other applicable benefit systems.

23           (g) The commission may suspend or dismiss a fire fighter [~~or~~  
24 ~~police officer~~] only for violation of civil service rules and only  
25 after a finding by the commission of the truth of specific charges  
26 against the fire fighter [~~or police officer~~].

27           SECTION 2.14. Subchapter D, Chapter 143, Local Government

1 Code, is amended by adding Section 143.0531 to read as follows:

2 Sec. 143.0531. APPEAL OF DISCIPLINARY SUSPENSION OF POLICE  
3 OFFICER. (a) If a suspended police officer appeals the suspension  
4 to the commission, the commission shall hold a hearing and render a  
5 decision in writing within 30 days after the date it receives notice  
6 of appeal and a final notice of charges representing the conclusion  
7 of the department's investigation. The suspended police officer  
8 and the commission may agree to postpone the hearing for a definite  
9 period.

10 (b) In a hearing conducted under this section, the  
11 department head is restricted to the department head's final  
12 written statement and charges, which may not be amended.

13 (c) The commission may deliberate the decision in closed  
14 session but may not consider evidence that was not presented at the  
15 hearing. The commission shall vote in open session.

16 (d) In the decision, the commission shall state whether the  
17 suspended police officer is:

18 (1) permanently dismissed from the police department;  
19 (2) temporarily suspended from the department;  
20 (3) subject to an alternative form of disciplinary

21 action under the progressive disciplinary matrix of the department;  
22 or

23 (4) restored to the police officer's former position  
24 or status in the department's classified service.

25 (e) If the commission finds that the period of disciplinary  
26 suspension should be reduced, the commission may order a reduction  
27 in the period of suspension. If the suspended police officer is

1 restored to the position or class of service from which the police  
2 officer was suspended with no reduction in pay, the police officer  
3 is entitled to:

4 (1) full compensation for the actual time lost as a  
5 result of the suspension at the rate of pay provided for the  
6 position or class of service from which the police officer was  
7 suspended; and

8 (2) restoration of or credit for any other benefits  
9 lost as a result of the suspension, including sick leave, vacation  
10 leave, and service credit in a retirement system. Standard payroll  
11 deductions, if any, for retirement and other benefits restored  
12 shall be made from the compensation paid, and the municipality  
13 shall make its standard corresponding contributions, if any, to the  
14 retirement system or other applicable benefit systems.

15 (f) The commission may suspend or dismiss a police officer  
16 only for violation of civil service rules and only after a finding  
17 by the commission of the truth of specific charges against the  
18 police officer.

19 SECTION 2.15. Section [143.054](#), Local Government Code, is  
20 amended by amending Subsection (c) and adding Subsections (c-1),  
21 (c-2), and (d-1) to read as follows:

22 (c) The commission may refuse to grant the request for  
23 demotion of a fire fighter.

24 (c-1) Before the commission may refuse to grant a request  
25 for demotion of a police officer, the commission shall request from  
26 the department the contact information for any person involved in  
27 any incident leading the department to recommend demotion,

1 including a member of the public or another police officer. The  
2 commission shall notify an involved person that the person may  
3 request a public hearing and present reasons why the commission  
4 should grant the department's request for demotion of the police  
5 officer. If there are no involved persons or the commission does  
6 not receive a request for a public hearing from an involved person  
7 before the 10th day after the date notice was given to the person,  
8 the commission may refuse to grant the request for demotion.

9       (c-2) If the commission believes that probable cause exists  
10 for ordering the demotion, the commission shall give the fire  
11 fighter or police officer written notice to appear before the  
12 commission for a public hearing at a time and place specified in the  
13 notice. The commission shall give the notice before the 10th day  
14 before the date the hearing will be held.

15       (d-1) Before the 10th day before the date the hearing is  
16 held, the commission shall give an individual who is a member of the  
17 public with knowledge of a specific incident that is the basis of  
18 the recommendation of demotion of a police officer notice of the  
19 time and place of the hearing and of the individual's right to  
20 testify.

21       SECTION 2.16. Section 143.055(c), Local Government Code, is  
22 amended to read as follows:

23       (c) The head of the police department may assign a police  
24 officer under the department head's ~~his~~ jurisdiction or  
25 supervision to uncompensated duty. The department head may not  
26 impose uncompensated duty unless the police officer agrees to  
27 accept the duty or the uncompensated duty is applied in accordance

1 with the department's progressive disciplinary matrix. If the  
2 police officer agrees to accept uncompensated duty, the department  
3 head shall give the police officer [~~person~~] a written statement  
4 that specifies the date or dates on which the police officer  
5 [~~person~~] will perform uncompensated duty.

6 SECTION 2.17. Section 143.057, Local Government Code, is  
7 amended by amending Subsection (a) and adding Subsection (b-1) to  
8 read as follows:

9 (a) In addition to the other notice requirements prescribed  
10 by this chapter, the written notice for a promotional bypass or the  
11 letter of disciplinary action, as applicable, issued to a fire  
12 fighter or police officer must state that in an appeal of an  
13 indefinite suspension, a suspension, a promotional bypass, [~~or~~] a  
14 recommended demotion, or, if issued to a police officer, any other  
15 disciplinary sanction, the appealing fire fighter or police officer  
16 may elect to appeal to an independent third party hearing examiner  
17 instead of to the commission. The letter must also state that if  
18 the fire fighter or police officer elects to appeal to a hearing  
19 examiner, the person waives all rights to appeal to a district court  
20 except as provided by Subsection (j).

21 (b-1) A hearing examiner must presume a disciplinary action  
22 applied to a police officer under a progressive disciplinary matrix  
23 is reasonable unless the facts indicate that the department  
24 inappropriately applied a category of offense to the particular  
25 violation.

26 SECTION 2.18. Section 143.089(g), Local Government Code, is  
27 amended to read as follows:



1 (g) A fire [~~or police~~] department may maintain a personnel  
2 file on a fire fighter [~~or police officer~~] employed by the  
3 department for the department's use, but the department may not  
4 release any information contained in the department file to any  
5 agency or person requesting information relating to a fire fighter  
6 [~~or police officer~~]. The department shall refer to the director or  
7 the director's designee a person or agency that requests  
8 information that is maintained in the fire fighter's [~~or police~~  
9 ~~officer's~~] personnel file.

10 SECTION 2.19. Section 143.1017, Local Government Code, is  
11 amended by amending Subsections (c) and (h) and adding Subsection  
12 (c-1) to read as follows:

13 (c) If the action directly related to the felony indictment  
14 or misdemeanor complaint against a fire fighter occurred or was  
15 discovered on or after the 180th day before the date of the  
16 indictment or complaint, the department head may, within 60 days  
17 after the date of final disposition of the indictment or complaint,  
18 bring a charge against the fire fighter [~~or police officer~~] for a  
19 violation of civil service rules.

20 (c-1) A police department head may, within 60 days after the  
21 date of final disposition of the indictment or complaint, bring a  
22 charge against the police officer for a violation of civil service  
23 rules.

24 (h) The department head may order an indefinite suspension  
25 of a fire fighter based on an act classified as a felony or any other  
26 crime involving moral turpitude after the 180-day period following  
27 the date of the discovery of the act by the department if the

1 department head considers delay to be necessary to protect a  
2 criminal investigation of the fire fighter's [~~person's~~] conduct.  
3 If the department head intends to order an indefinite suspension of  
4 a fire fighter after the 180-day period, the department head must  
5 file with the attorney general a statement describing the criminal  
6 investigation and its objectives within 180 days after the date the  
7 act complained of occurred.

8 SECTION 2.20. Section [143.117](#), Local Government Code, is  
9 amended by amending Subsections (b) and (d) and adding Subsection  
10 (b-1) to read as follows:

11 (b) The department head may suspend a fire fighter [~~or~~  
12 ~~police officer~~] under this section only if the fire fighter  
13 [~~person~~] violates a civil service rule. However, the department  
14 head may not suspend a fire fighter [~~or police officer~~] later than  
15 the 180th day after the date the department discovers or becomes  
16 aware of the civil service rule violation. If, during an  
17 investigation of an alleged civil service rule violation, it is  
18 alleged that the fire fighter [~~or police officer~~] under  
19 investigation committed another violation of a civil service rule  
20 connected with the first alleged violation, the 180-day period  
21 prescribed by this subsection does not begin again for purposes of a  
22 suspension of the fire fighter [~~or police officer~~] if the second  
23 violation in question does not involve untruthfulness or refusal to  
24 obey a valid order to make a statement, and therefore the department  
25 head may not suspend a fire fighter [~~or police officer~~] for the  
26 second violation later than the 180th day after the date the  
27 department discovers or becomes aware of the original violation.

1        (b-1) The department head may suspend a police officer under  
2 this section only if the police officer violates a civil service  
3 rule, except the department head may not suspend a police officer  
4 later than the first anniversary of the date the department  
5 discovers or becomes aware of the civil service rule violation.

6        (d) The suspension is void and the fire fighter or police  
7 officer is entitled to the person's full pay if:

8            (1) the department head fails to file the statement  
9 during the required time; or

10           (2) the suspension is imposed later than:

11                (A) the 180th day after the date the department  
12 discovers or becomes aware of the violation that resulted in the  
13 suspension for a fire fighter; or

14                (B) the first anniversary of the date the  
15 department discovered or became aware of the violation that  
16 resulted in the suspension for a police officer.

17        SECTION 2.21. Section 143.119, Local Government Code, is  
18 amended by amending Subsection (g) and adding Subsection (h) to  
19 read as follows:

20           (g) In the original written statement and charges and in any  
21 hearing conducted under this chapter involving a fire fighter, the  
22 department head may not complain of an act that did not occur within  
23 the six-month period preceding the date on which the department  
24 head suspends the fire fighter [~~or police officer~~].

25           (h) In the original written statement and charges and in any  
26 hearing conducted under this chapter involving a police officer,  
27 the department head may not complain of an act that did not occur

1 within the one-year period preceding the date the department head  
2 suspends the police officer.

3 SECTION 2.22. Section 143.1214, Local Government Code, is  
4 amended by amending Subsections (b), (c), and (e) and adding  
5 Subsection (c-1) to read as follows:

6 (b) The department shall maintain an investigatory file  
7 that relates to a disciplinary action against a fire fighter or  
8 police officer that was overturned on appeal, or any document in the  
9 possession of the department that relates to a charge of misconduct  
10 against a fire fighter or police officer, regardless of whether the  
11 charge is sustained, only in a file created by the department for  
12 the department's use. The department may only release information  
13 in those investigatory files or documents relating to a charge of  
14 misconduct:

15 (1) to another law enforcement agency or fire  
16 department;

17 (2) to the office of a district or United States  
18 attorney; or

19 (3) in accordance with Subsection (c) or (c-1).

20 (c) The department head or the department head's designee  
21 may forward a document that relates to disciplinary action against  
22 a fire fighter [~~or police officer~~] to the director or the director's  
23 designee for inclusion in the fire fighter's [~~or police officer's~~]  
24 personnel file maintained under Sections 143.089(a)-(f) only if:

25 (1) disciplinary action was actually taken against the  
26 fire fighter [~~or police officer~~];

27 (2) the document shows the disciplinary action taken;

1 and

2 (3) the document includes at least a brief summary of  
3 the facts on which the disciplinary action was based.

4 (c-1) The department head or the department head's designee  
5 shall forward a document that relates to disciplinary action  
6 against a police officer to the director or the director's designee  
7 for inclusion in the police officer's personnel file maintained  
8 under Sections 143.089(a)-(f).

9 (e) The requirements of this section are in addition to the  
10 requirements of Section 143.089. This section does not prevent a  
11 fire fighter [~~or police officer~~] from obtaining access to any  
12 personnel file maintained by the director or the department, other  
13 than a file maintained by an internal affairs division or other  
14 similar internal investigative division, on the fire fighter [~~or~~  
15 ~~police officer~~] under Section 143.089. This section does not  
16 prevent a police officer from obtaining access to any personnel  
17 file maintained by the director or the department. A police officer  
18 may obtain access to information that is subject to disclosure  
19 under Chapter 552, Government Code, contained in a file maintained  
20 by an internal affairs division or other similar internal  
21 investigative division under Section 143.089.

22 SECTION 2.23. Section 143.1216(d), Local Government Code,  
23 is amended to read as follows:

24 (d) The department shall [~~may not~~] include a record of a  
25 supervisory intervention procedure or a policy and procedure  
26 inquiry regarding a police officer in the police officer's  
27 personnel file maintained under Section 143.089 [~~or in the~~

1 ~~department file maintained under Section 143.089(g)].~~

2 SECTION 2.24. Section 143.307, Local Government Code, is  
3 amended by amending Subsections (a) and (b) and adding Subsection  
4 (d) to read as follows:

5 (a) Except as provided by Subsection (d), an [An] agreement  
6 under this subchapter supersedes a previous statute concerning  
7 wages, salaries, rates of pay, hours of work, or other terms and  
8 conditions of employment to the extent of any conflict with the  
9 statute.

10 (b) Except as provided by Subsection (d), an [An] agreement  
11 under this subchapter preempts any contrary statute, executive  
12 order, local ordinance, or rule adopted by the state or a political  
13 subdivision or agent of the state, including a personnel board, a  
14 civil service commission, or a home-rule municipality.

15 (d) An agreement under this subchapter affecting police  
16 officers may not conflict with and does not supersede a statute,  
17 order, ordinance, or rule concerning the disciplinary actions that  
18 may be imposed on a police officer. The agreement must implement a  
19 progressive disciplinary matrix.

20 SECTION 2.25. Section 143.361, Local Government Code, is  
21 amended by amending Subsections (a) and (b) and adding Subsection  
22 (d) to read as follows:

23 (a) Except as provided by Subsection (d), a [A] written  
24 agreement ratified under this subchapter between a public employer  
25 and the bargaining agent supersedes a previous statute concerning  
26 wages, salaries, rates of pay, hours of work, and other terms of  
27 employment other than pension benefits to the extent of any

1 conflict with the previous statute.

2 (b) Except as provided by Subsection (d), a [A] written  
3 agreement ratified under this subchapter preempts all contrary  
4 local ordinances, executive orders, legislation, or rules adopted  
5 by the state or a political subdivision or agent of the state, such  
6 as a personnel board, a civil service commission, or a home-rule  
7 municipality.

8 (d) An agreement under this subchapter may not conflict with  
9 and does not supersede an ordinance, order, statute, or rule  
10 concerning the disciplinary actions that may be imposed on a police  
11 officer. The agreement must implement a progressive disciplinary  
12 matrix.

13 SECTION 2.26. Section 174.005, Local Government Code, is  
14 amended to read as follows:

15 Sec. 174.005. PREEMPTION OF OTHER LAW. (a) Except as  
16 provided by Subsection (b), this [This] chapter preempts all  
17 contrary local ordinances, executive orders, legislation, or rules  
18 adopted by the state or by a political subdivision or agent of the  
19 state, including a personnel board, civil service commission, or  
20 home-rule municipality.

21 (b) This chapter does not authorize the adoption or  
22 implementation of an agreement that conflicts with an ordinance,  
23 order, statute, or rule concerning the disciplinary actions that  
24 may be imposed on a police officer. An agreement adopted under this  
25 chapter must implement a progressive disciplinary matrix, as  
26 described by Section 143.0511, for police officers.

27 SECTION 2.27. The changes in law made by this article apply

1 only to a disciplinary action for conduct that occurs on or after  
2 September 1, 2018. Conduct that occurs before that date is governed  
3 by the law in effect immediately before that date, and the former  
4 law is continued in effect for that purpose.

5 SECTION 2.28. Sections 142.067(b), 143.307(d), 143.361(d),  
6 and 174.005(b), Local Government Code, as added by this article,  
7 apply only to an agreement entered into or renewed on or after  
8 September 1, 2018. An agreement entered into or renewed before  
9 September 1, 2018, is governed by the law in effect on the date the  
10 agreement was entered into or renewed, and the former law is  
11 continued in effect for that purpose.

12 ARTICLE 3. MODEL PROGRESSIVE DISCIPLINARY MATRIX

13 SECTION 3.01. (a) The Bill Blackwood Law Enforcement  
14 Management Institute of Texas shall consult with law enforcement  
15 agencies of all sizes, law enforcement associations, law  
16 enforcement training experts, and appropriate organizations  
17 engaged in the development of law enforcement policy to develop a  
18 model progressive disciplinary matrix, as defined by Section  
19 143.003(6), Local Government Code, as added by this Act, and  
20 associated training materials regarding the application of that  
21 matrix. The institute shall provide for a period of public comment  
22 before adopting the model progressive disciplinary matrix and  
23 training materials.

24 (b) Not later than January 1, 2018, the institute shall  
25 adopt and disseminate the model progressive disciplinary matrix and  
26 training materials to all law enforcement agencies and civil  
27 service commissions in this state.



1           SECTION 3.02. This article expires September 1, 2018.

2                           ARTICLE 4. EFFECTIVE DATES

3           SECTION 4.01. (a) Except as otherwise provided by this Act,  
4 this Act takes effect September 1, 2017.

5           (b) Article 2 of this Act takes effect September 1, 2018.