

By: Martinez

H.B. No. 2090

A BILL TO BE ENTITLED

AN ACT

relating to deputy sheriff civil service appeals of certain sheriff's department actions.

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

SECTION 1. Chapter 158, Local Government Code, is amended by adding Subchapter C to read as follows:

SUBCHAPTER C. DEPUTY SHERIFF APPEAL TO INDEPENDENT HEARING EXAMINER

Sec. 158.101. DEFINITION. In this subchapter, "commission" means the civil service commission appointed to administer the applicable civil service system.

Sec. 158.102. APPLICABILITY OF SUBCHAPTER. This subchapter applies to a civil service system created under this chapter that covers deputy sheriffs.

Sec. 158.103. AUTHORITY TO APPEAL TO INDEPENDENT EXAMINER; REPEAL OF AUTHORITY. (a) If authorized to do so by an order of the commissioners court, a commission by rule may authorize deputy sheriffs to appeal under this subchapter to an independent hearing examiner instead of to the commission the following employment actions:

- (1) a recommended demotion;
- (2) a suspension of three days or more; or
- (3) a termination.

(b) A commissioners court may repeal the order authorizing appeals to a hearing examiner under Subsection (a) at any time. If

1 the commissioners court repeals the order, any pending appeal is  
2 governed by this subchapter until final resolution of the appeal.

3 Sec. 158.104. REQUIRED NOTICE OF HEARING EXAMINER APPEAL.

4 A written notice for a demotion or disciplinary action issued to a  
5 deputy sheriff must state that in an appeal of a recommended  
6 demotion, a suspension of three days or more, or a termination, the  
7 deputy may appeal to an independent hearing examiner instead of to  
8 the commission. The notice must state that if the deputy appeals to  
9 a hearing examiner, the deputy waives the right to appeal to  
10 district court except as provided by Section 158.111(b).

11 Sec. 158.105. REQUEST FOR HEARING EXAMINER APPEAL. To

12 appeal to a hearing examiner, a deputy sheriff must submit to the  
13 commission and the sheriff a written request as part of any original  
14 notice of appeal required under the commission's rules stating the  
15 deputy's preference to appeal to an independent hearing examiner.

16 Sec. 158.106. SELECTION OF HEARING EXAMINER. (a) On a

17 request under Section 158.105, the deputy sheriff and the sheriff,  
18 or their designees, shall attempt to agree on the selection of an  
19 impartial hearing examiner.

20 (b) If the deputy and the sheriff do not agree on the  
21 selection of a hearing examiner within 10 days after the date the  
22 appeal is filed, the commission shall request a list of seven  
23 qualified arbitrators from the American Arbitration Association or  
24 the Federal Mediation and Conciliation Service, or their successors  
25 in function.

26 (c) The deputy and the sheriff, or their designees, may  
27 agree on one of the seven arbitrators on the list described by

1 Subsection (b). If the deputy and the sheriff do not agree within  
2 five business days after the date the list is received, the deputy  
3 and the sheriff, or their designees, shall alternate striking a  
4 name from the list and the name remaining is the hearing examiner.

5 Sec. 158.107. DATE OF HEARING. (a) The deputy sheriff and  
6 the sheriff, or their designees, must agree on a date for an appeal  
7 hearing conducted under this subchapter.

8 (b) An appeal hearing must begin as soon as a hearing  
9 examiner can be scheduled. If a hearing examiner cannot begin the  
10 hearing within 45 days after the date of selection, the deputy or  
11 the sheriff may, within two days after learning of that fact, call  
12 for the selection of a new hearing examiner using the procedure  
13 under Section 158.106.

14 Sec. 158.108. POWERS OF HEARING EXAMINER. In an appeal  
15 hearing conducted under this subchapter, the hearing examiner has  
16 the same powers and duties as the commission, including any right to  
17 issue subpoenas.

18 Sec. 158.109. DECISION DEADLINE. (a) In an appeal hearing  
19 conducted under this subchapter, the deputy sheriff and the sheriff  
20 may agree to an expedited hearing procedure. Unless otherwise  
21 agreed to by the deputy and the sheriff, a hearing examiner shall  
22 render a decision on the appeal in an expedited procedure within 10  
23 days after the date the hearing ends.

24 (b) In an appeal that does not involve an expedited hearing  
25 procedure, a hearing examiner shall make a reasonable effort to  
26 render a decision on the appeal within 30 days after the date the  
27 hearing ends or the briefs are filed.

1       (c) A hearing examiner's inability to meet the time  
2 requirements imposed by this subchapter does not affect the hearing  
3 examiner's jurisdiction, the validity of the disciplinary action,  
4 or the hearing examiner's final decision.

5       Sec. 158.110. COSTS OF HEARING. (a) A party who loses an  
6 appeal is liable for the hearing examiner's fees and expenses.

7       (b) The costs of a witness are paid by the party who calls  
8 the witness.

9       Sec. 158.111. APPEAL OF DECISION. (a) A hearing examiner's  
10 decision is final and binding on all parties. A deputy sheriff who  
11 decides to appeal to an independent hearing examiner waives the  
12 right to appeal to district court except as provided by Subsection  
13 (b).

14       (b) A district court may hear an appeal of a hearing  
15 examiner's award only on the grounds that the hearing examiner was  
16 without jurisdiction or exceeded the hearing examiner's  
17 jurisdiction or that the order was procured by fraud, collusion, or  
18 other unlawful means. An appeal must be brought in the district  
19 court having jurisdiction in the county.

20       SECTION 2. This Act takes effect September 1, 2019.