

BILL ANALYSIS

H.B. 829
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Urban Affairs
Committee Report (Unamended)

BACKGROUND AND PURPOSE

Studies have shown that the majority of disciplinary actions taken against police officers are overturned on appeal in certain jurisdictions. In many instances, disciplinary actions are overturned on the basis that the discipline is not issued in a standard way and the officer subject to the discipline has shown that the officer was not treated the same as another officer in similar circumstances. H.B. 829 seeks to address this issue and ensure greater uniformity in discipline of peace officers across the state by requiring an applicable Fire Fighters' and Police Officers' Civil Service Commission to adopt a progressive disciplinary matrix to govern police officer misconduct.

CRIMINAL JUSTICE IMPACT

It is the committee's opinion that this bill does not expressly create a criminal offense, increase the punishment for an existing criminal offense or category of offenses, or change the eligibility of a person for community supervision, parole, or mandatory supervision.

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

H.B. 829 amends the Local Government Code to require a Fire Fighters' and Police Officers' Civil Service Commission under the fire fighters' and police officers' civil service law to implement a progressive disciplinary matrix for infractions committed by police officers that consists of a range of progressive disciplinary actions applied in a standardized way based on the nature of the infraction and the officer's prior conduct record, including the following:

- removal;
- suspension;
- change of duty or assignment;
- demotion;
- deduction of points from a promotional examination grade;
- retraining;
- a written warning; or
- a written reprimand.

H.B. 829 requires the implemented matrix to include the following:

- standards for disciplinary actions relating to the use of force against another person, including the failure to de-escalate force incidents in accordance with departmental policy;
- standards for evaluating the level of discipline appropriate for uncommon infractions; and

- presumptive actions to be taken for each type of infraction and any adjustment to be made based on a police officer's previous disciplinary record.

H.B. 829 defines "progressive disciplinary matrix" to mean a formal schedule for disciplinary actions that may be taken against a police officer under the bill.

H.B. 829 requires the Bill Blackwood Law Enforcement Management Institute of Texas to consult with law enforcement agencies of all sizes, law enforcement associations, law enforcement training experts, and appropriate organizations engaged in the development of law enforcement policy to develop a model progressive disciplinary matrix and associated training materials regarding the application of that matrix. The institute must do the following:

- provide for a period of public comment before adopting the model matrix and training materials; and
- not later than January 1, 2022, adopt and disseminate the model matrix and training materials to all law enforcement agencies and civil service commissions in Texas.

These provisions expire September 1, 2022.

H.B. 829 requires certain public employers, including a municipal public employer under The Fire and Police Employee Relations Act, to implement a progressive disciplinary matrix for municipal police officers if the municipality has not adopted the fire fighters' and police officers' civil service law. The bill requires such a public employer to adopt rules necessary to implement the matrix.

H.B. 829 removes the requirement for a Fire Fighters' and Police Officers' Civil Service Commission under the fire fighters' and police officers' civil service law to adopt rules that prescribe cause for removal or suspension of a police officer. The commission must instead adopt rules that prescribe the disciplinary actions that may be taken against a police officer under a progressive disciplinary matrix.

H.B. 829 establishes the following:

- a letter of disciplinary action issued to a police officer must state that in an appeal of an applicable disciplinary sanction that the appealing police officer may elect to appeal to an independent third party hearing examiner instead of to the commission; and
- a hearing examiner must presume a disciplinary action applied to a police officer under a progressive disciplinary matrix is reasonable unless the facts indicate that the police department inappropriately applied a category of offense to the particular violation.

H.B. 829 requires certain local agreements affecting police officer employment matters to implement the progressive disciplinary matrix and provides the following:

- such an agreement may not conflict with, and the agreement does not supersede, a statute, order, ordinance, civil service provision, or rule, respectively, concerning the disciplinary actions that may be imposed on a police officer under the matrix; and
- The Fire and Police Employee Relations Act does not authorize the adoption or implementation of an agreement that conflicts with an ordinance, order, statute, or rule concerning the disciplinary actions that may be imposed on municipal police officers under a progressive disciplinary matrix implemented by the municipal public employer.

These provisions apply only to an agreement entered into or renewed on or after March 1, 2022.

H.B. 829 applies only to a disciplinary action for conduct that occurs on or after March 1, 2022.

EFFECTIVE DATE

September 1, 2021.