

## **BILL ANALYSIS**

C.S.H.B. 1069  
By: Harris  
Homeland Security & Public Safety  
Committee Report (Substituted)

### **BACKGROUND AND PURPOSE**

First responders are susceptible to violence while carrying out their responsibilities, particularly in rural areas, as they are often the first ones on the scene of an incident before police can arrive. Currently, first responders are not afforded the opportunity to carry a handgun while on duty to defend themselves in these scenarios. C.S.H.B. 1069 seeks to ensure first responders employed or supervised by counties or municipalities with smaller populations are able to defend themselves by establishing the right of certain first responders who are handgun license holders to carry a handgun while carrying out their duties, contingent on the first responder obtaining liability insurance and completing applicable training.

### **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 rulemaking authority is expressly granted to the public safety director of the Department of Public Safety in SECTION 3 and to the Department of Public Safety in SECTION 3 of this bill.

### **ANALYSIS**

C.S.H.B. 1069 establishes provisions relating to the carrying of a handgun by a first responder, which the bill defines through amending Penal Code provisions governing weapons offenses as a public safety employee whose duties include responding rapidly to an emergency. That term includes fire protection personnel and emergency medical services personnel but excludes the following:

- volunteer emergency services personnel;
- an emergency medical services volunteer; and
- a peace officer or reserve law enforcement officer who is performing law enforcement duties.

#### **Training Course for Certain First Responders**

C.S.H.B. 1069 amends the Government Code to require the public safety director of the Department of Public Safety (DPS) by rule to establish minimum standards for an initial training course and requires DPS by rule to establish minimum standards for an annual continuing education course to be administered by a qualified handgun instructor that may be completed by a first responder who is a handgun license holder and who is employed or supervised as follows:

- by a municipality with a population of 30,000 or less that has not adopted The Fire and Police Employee Relations Act; or

- by a county with a population of 250,000 or less that has not adopted that act.

A qualified handgun instructor may not offer the initial training course before January 1, 2022.

C.S.H.B. 1069 provides for a first responder who completes a training course to be issued a corresponding certificate of completion by DPS and sets the certificate to expire on the first anniversary of issuance to align with the annual continuing education training requirement. The bill sets out provisions relating to the form and content of the initial training course and provides that:

- the initial course must include not more than 40 hours of instruction;
- the continuing education courses must include not more than 10 hours of instruction; and
- a first responder is responsible for paying the costs of the applicable course to the course provider.

C.S.H.B. 1069 requires the director by rule to approve devices to enable a first responder to secure and store a handgun when, while on duty, the first responder is required to enter a location where carrying the handgun is prohibited by federal law or otherwise.

C.S.H.B. 1069 requires the director to adopt the rules necessary to implement these Government Code provisions not later than December 1, 2021.

### **Authority of Certain First Responders to Carry a Handgun**

C.S.H.B. 1069 amends the Local Government Code to provide for the authority of first responders employed or supervised by a municipality with a population of 30,000 or less that has not adopted The Fire and Police Employee Relations Act or by a county with a population of 250,000 or less that has not adopted that act to carry a handgun.

C.S.H.B. 1069 requires such a first responder to maintain liability insurance coverage in an amount of at least \$1 million if the first responder carries a handgun while on duty that is not an essential part of the first responder's duties. The bill prohibits an applicable municipality or county that employs or supervises first responders from adopting or enforcing an ordinance, order, or other measure that generally prohibits a first responder who holds a handgun license, an unexpired certificate of completion of a training course provided under the bill, and such a liability policy from doing the following:

- carrying a concealed or holstered handgun while on duty; or
- storing a handgun that is secured by a DPS-approved device on the premises of or in a vehicle owned or leased by the municipality or county.

However, a municipality or county is expressly not prohibited from adopting an ordinance, order, or other measure that, as follows:

- prohibits a first responder from carrying a handgun while on duty based on the first responder's conduct; or
- limits the carrying of a handgun only to the extent necessary to ensure that carrying the handgun does not interfere with the first responder's duties.

C.S.H.B. 1069 authorizes a municipal or county department or private entity that employs or supervises first responders providing services for a municipality or county to adopt a policy authorizing a first responder who is employed or supervised by the department or entity and who holds a handgun license, an unexpired certificate of course completion, and the requisite liability policy to do the following:

- carry a concealed or holstered handgun while on duty; or
- store a handgun that is secured with a DPS-approved device on the premises of or in a vehicle owned or leased by the municipality, county, or private entity.

Such a first responder may not engage in that conduct unless the department or entity has adopted the policy.

C.S.H.B. 1069 requires a first responder who enters a location where carrying a handgun is prohibited by federal law or otherwise to use a DPS-approved handgun storage device to secure and store the handgun and makes the first responder responsible for procuring the device or for reimbursing the first responder's employer or supervisor for the use of a device provided by the employer or supervisor.

C.S.H.B. 1069 limits the situations in which a first responder may discharge a handgun while on duty to situations that are self-defense and additionally provides the following:

- the discharge of a handgun by a first responder who is licensed to carry a handgun is outside the course and scope of the first responder's duties;
- the municipality or county that employs or supervises the first responder is not liable in a civil action arising from the first responder discharging the handgun; and
- the bill's provisions establishing the authority of certain first responders to carry a handgun do not create a cause of action or liability and may not be construed to waive a municipality's or county's governmental immunity from suit or to liability.

C.S.H.B. 1069 authorizes a member of the public to submit a complaint to the municipality or county employing or supervising a first responder using the municipality's or county's existing complaint procedure. The bill establishes that one or more complaints received with respect to a specific first responder are grounds for prohibiting or limiting that first responder's carrying a handgun while on duty.

### **Liability Protections**

C.S.H.B. 1069 amends the Civil Practice and Remedies Code to expand the applicability of statutory provisions limiting the liability for governmental units in relation to certain actions of volunteer emergency services personnel who discharge a handgun to make those liability protections apply also with respect to first responders.

### **Defenses to and Exceptions From Certain Weapons Offenses**

C.S.H.B. 1069 amends the Penal Code to establish as a defense to prosecution for the offenses of trespass by a handgun license holder with a concealed handgun or with an openly carried handgun that the license holder is a first responder employed or supervised by an applicable municipality or county to which the bill's Local Government Code provisions apply who:

- is engaged in the actual discharge of the first responder's duties while carrying the handgun; and
- holds an unexpired certificate of course completion from DPS under the bill's provisions.

C.S.H.B. 1069 also exempts such a first responder from the offenses of unlawful carrying of a weapon and possessing or going with a prohibited weapon in a place where weapons are prohibited, as well as from certain conduct constituting the unlawful carrying of a handgun by a handgun license holder, contingent on the handgun having been carried in a concealed manner or in a shoulder or belt holster while engaged in the actual discharge of the responder's duties.

### **EFFECTIVE DATE**

September 1, 2021.

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

While C.S.H.B. 1069 may differ from the original in minor or nonsubstantive ways, the following summarizes the substantial differences between the introduced and committee substitute versions of the bill.

The substitute changes the applicability of the original's provisions to make the provisions applicable only to first responders employed or supervised by certain municipalities or counties and not to volunteer emergency services personnel of any sort. The substitute, accordingly:

- does not include any of the original's changes with respect to the application of the original's provisions to volunteer emergency services personnel classified and defined as a first responder by the original; and
- applies instead only to first responders who are employed or supervised by a municipality with a population of 30,000 or less that has not adopted The Fire and Police Employee Relations Act or by a county with a population of 250,000 or less that has not adopted that act.

The substitute also does not include any of the original's provisions regarding the original's classification of volunteer emergency services personnel as first responders. The substitute, accordingly:

- explicitly excludes those volunteers from its definition of "first responder"; and
- updates the original's defenses to prosecution and exemptions to provide separate defenses to prosecution and exemptions specifically applicable to the first responders as defined by the substitute.

The substitute revises the provisions in the original that provide for only a single one-time training course for applicable first responders who are handgun license holders to provide instead for both an initial training course and an annual continuing education course. Accordingly, the substitute does the following:

- it sets the duration of a certificate of completion of a training course at one year and provides for the certificate to be issued after both the initial and any continuing education course; and
- it increases from 20 hours, as in the original, to 40 hours the maximum number of hours of instruction provided in the initial training course.

The substitute revises the original's provisions establishing the authority of an applicable first responder to carry a handgun as follows:

- it requires a first responder who carries a handgun while on duty that is not an essential part of the first responder's duties to maintain liability insurance coverage in an amount of at least \$1 million;
- it replaces the prohibition against adopting a rule or regulation that prohibits an applicable first responder from carrying or storing a handgun in an approved manner with a prohibition against adopting or enforcing an ordinance, order, or other measure that has that general effect;
- it provides that a municipality or county may adopt an ordinance, order, or other measure that prohibits a first responder from carrying a handgun while on duty based on their conduct or that limits the carrying of a handgun only to the extent necessary to ensure that carrying the handgun does not interfere with the responder's duties;
- it establishes circumstances under which a first responder must secure and store a handgun in a DPS-approved storage device and makes the first responder responsible for procuring or reimbursing for the costs associated with the device; and
- it authorizes a member of the public to submit a complaint to the municipality or county employing or supervising a first responder and establishes that one or more such complaints is grounds for prohibiting or limiting that first responder's carrying a handgun while on duty.

The substitute establishes a uniform effective date for all of the bill's provisions of September 1, 2021, rather than the following effective dates as provided in the original:

- for the provisions changing applicability of the defenses to prosecution and exemptions from offenses, September 1, 2022; and
- for the remainder of the bill's provisions, September 1, 2021.