

## **BILL ANALYSIS**

H.B. 1550  
By: Cyrier  
Homeland Security & Public Safety  
Committee Report (Unamended)

### **BACKGROUND AND PURPOSE**

The Texas Commission on Law Enforcement (TCOLE) sets and enforces minimum licensing and training standards for law enforcement personnel at the state level but has no meaningful role in enforcing standards of conduct or establishing disciplinary policies. Those duties are performed by local law enforcement agencies. Following review by the Sunset Advisory Commission, the commission found that, although Texas has a clear and continuing need to regulate law enforcement, the state's current regulation is, by and large, toothless. The state's bifurcated regulatory approach has resulted in a fragmented, outdated system with poor accountability, a lack of statewide standards, and inadequate officer training that cannot be addressed solely through changes to TCOLE operations. H.B. 1550 seeks to continue TCOLE for two years while establishing a blue ribbon panel to comprehensively review and recommend to the 88th Legislature changes needed to improve law enforcement regulation in Texas, including the role of TCOLE. The bill also makes a number of statutory changes designed to improve the efficiency and effectiveness of TCOLE operations, regardless of future policy decisions.

### **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 Texas Commission on Law Enforcement in SECTIONS 4, 11, and 14 of this bill.

### **ANALYSIS**

H.B. 1550 amends the Occupations Code to continue the Texas Commission on Law Enforcement (TCOLE) and applicable state law governing TCOLE and the licensing and regulation of law enforcement officers until September 1, 2023. The bill provides for a limited-scope review of TCOLE by the Sunset Advisory Commission for the 88th Legislature to include an update on TCOLE's progress in implementing recommendations to the 87th Legislature and an evaluation of any legislative recommendations made by the panel under the bill's provisions. The bill authorizes the sunset commission's recommendations to the 88th Legislature to include any appropriate recommendations based on that limited-scope review.

H.B. 1550 does the following with respect to TCOLE:

- regarding TCOLE member training:
  - revises provisions related to TCOLE member training and provides for the creation of a related training manual that each member must acknowledge having received and reviewed; and

- provides for the transition to the new training requirements for TCOLE members appointed before the bill's effective date;
- removes the authority for TCOLE to establish minimum moral standards for licensing;
- authorizes TCOLE to appoint advisory committees;
- provides TCOLE subpoena powers for purposes of investigating an alleged violation of applicable state law or rule and authorizes TCOLE, acting through the attorney general, to bring an action to enforce the subpoena;
- establishes that TCOLE is not required to provide the identity of any nontestifying complainant when providing a license holder information regarding complaints made against the license holder; and
- updates provisions relating to TCOLE complaint procedures to apply certain good government standards.

H.B. 1550 requires TCOLE to adopt rules specifying the circumstances under which it may request that a license holder submit to an examination by a psychologist, psychiatrist, or physician selected by TCOLE to determine whether the license holder continues to meet applicable licensing standards. If the license holder refuses to submit to the examination, TCOLE must issue an order requiring the person to show cause for the refusal at a hearing. The bill sets out provisions relating to the hearing and relating to the appeal of a TCOLE order, if applicable, and authorizes TCOLE to suspend the license of a person who refuses to submit to an examination unless TCOLE withdraws the request for the person to do so. If the results of an examination show that the person does not meet the applicable standards, TCOLE is required to suspend the person's license. The bill makes records relating to a request, order, hearing, or examination confidential and not subject to disclosure under state public information law.

H.B. 1550 provides for a fingerprint-based criminal history record information check for license applicants based on information obtained by TCOLE from the individual and from the Department of Public Safety (DPS), the FBI, and any other applicable criminal justice agency. The bill prohibits TCOLE from issuing a license to a person who does not comply with the requirement to submit a complete and legible set of fingerprints for purposes of obtaining that information. The bill authorizes TCOLE to enter into an agreement with DPS to administer the record check and to authorize DPS to collect from each applicant the costs incurred in doing so.

H.B. 1550 requires TCOLE to conduct a fingerprint-based criminal history record check not later than September 1, 2024, on each person who holds a license on September 1, 2021. The bill authorizes TCOLE to suspend the license of a person who does not comply with a request to provide information or fingerprints that would enable TCOLE to obtain the requisite criminal history record information. The bill authorizes TCOLE to adopt rules to implement these provisions, including rules to stagger implementation.

H.B. 1550 requires TCOLE to adopt rules specifying the circumstances under which it may issue without a hearing an emergency order suspending a person's license for a maximum period of 90 days after determining that the person constitutes an imminent threat to the public health, safety, or welfare. The bill requires an emergency suspension order to state the length of the suspension and requires TCOLE, on issuing an emergency order without a hearing, to set the time and place for a hearing to be conducted by the State Office of Administrative Hearings not later than the 10th day after the date the order was issued. The bill sets out provisions relating to such a hearing, including an authorization for TCOLE by rule to prescribe procedures for the determination and appeal of the emergency order.

H.B. 1550 establishes a 17-member panel to study and make recommendations regarding the regulation of persons licensed as law enforcement officers and the entities authorized by law to employ those persons. The bill sets out the composition of the panel, which includes the following:

- nine members who are knowledgeable on criminal justice matters, with three members each appointed by the governor, lieutenant governor, and speaker of the house of representatives in accordance with certain requirements;
- three public members, with one member each appointed by the governor, lieutenant governor, and speaker;
- the chairs of the applicable standing legislative committees;
- the chair of the board of the Texas District and County Attorney's Association or the chair's designee; and
- as nonvoting members, the TCOLE executive director and the attorney general or the attorney general's designee.

The bill requires the appointments to the panel to be made not later than September 1, 2021.

H.B. 1550 does the following with respect to the panel:

- requires the governor to designate the panel's chair and vice chair and requires the panel to meet at the call of the chair;
- authorizes the panel to establish advisory committees to assist with its duties;
- regarding meetings:
  - subjects the panel and any established advisory committees to state open meetings law;
  - provides for meetings by telecommunication methods; and
  - requires the panel to hold a public hearing at least once every month to solicit testimony and provide information to the public regarding the panel's work;
- makes certain panel documents confidential and not subject to disclosure under state public information law;
- grants the panel subpoena power to compel the production of certain documents and the attendance of a witness for examination under oath and authorizes the panel, acting through the attorney general, to bring an action to enforce the subpoena;
- provides for the reimbursement of a panel member for travel and other reasonable and necessary expenses; and
- requires TCOLE to provide facilities and administrative support as reasonable necessary for the panel to carry out its duties.

H.B. 1550 requires the panel as part of its study and recommendations to consider issues relating to the following:

- standards of conduct applicable to persons licensed as law enforcement officers;
- education and training requirements;
- TCOLE's regulation of training programs and schools; and
- public accountability for persons licensed as law enforcement officers and the entities authorized by law to employ those persons, including:
  - the need for statewide standards applicable to those entities and who should develop, review, and update those standards;
  - changes to TCOLE's authority to discipline a license holder for violations or misconduct;
  - appropriate procedures to protect a license holder's rights during disciplinary proceedings; and
  - the reporting of terminations.

The bill requires the panel, not later than June 1, 2022, to deliver a report to the governor, lieutenant governor, speaker, each member of the legislature, and the Sunset Advisory Commission on the areas of study, including any recommendations to the legislature adopted by the panel. A recommendation to the legislature may be adopted by majority vote of a quorum of the panel, but the report may be issued only if adopted by a two-thirds vote of the panel's total membership. The panel is abolished and the related bill provisions expire December 31, 2022.

**EFFECTIVE DATE**

September 1, 2021.