

BILL ANALYSIS

H.B. 2844
By: Goodwin
Homeland Security & Public Safety
Committee Report (Unamended)

BACKGROUND AND PURPOSE

It has been noted by entities including the Sunset Advisory Commission that the Texas Commission on Law Enforcement (TCOLE) lacks sufficient authority to fully execute its mission to ensure highly trained and ethical law enforcement, particularly the lack of authority to suspend or revoke officer licenses, except in cases involving convictions of felonies or serious misdemeanors. H.B. 2844 seeks to remedy this issue by requiring TCOLE to suspend the license of an officer who has been dishonorably discharged and providing for the suspension or revocation of the license of an officer whose continued performance of duties is considered a threat to the public welfare.

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 SECTION 4 of this bill.

ANALYSIS

H.B. 2844 amends the Occupations Code to require the Texas Commission on Law Enforcement (TCOLE), not later than January 1, 2022, by rule to establish grounds under which it shall suspend or revoke an officer license on its determination that the license holder's continued performance of duties as an officer constitutes a threat to the public welfare. The grounds for license suspension or revocation must include the following:

- lack of competence in performing the license holder's duties as an officer;
- illegal drug use or an addiction that substantially impairs the license holder's ability to perform their duties as an officer;
- lack of truthfulness in court proceedings or other governmental operations, including making a false statement to obtain employment as an officer or in an offense report or other report as part of an investigation, making a false entry in court records or tampering with evidence, regardless of whether they are prosecuted or convicted for that entry or tampering, and engaging in conduct designed to impair the results or procedure of an examination or testing process associated with obtaining employment as an officer or a promotion to a higher rank;
- failure to follow the lawful directives of a supervising officer or to follow the policies of the employing law enforcement agency;
- discriminatory conduct based on the race, color, religion, sex, pregnancy, national origin, age, disability, or sexual orientation of another that would cause a reasonable person to believe that the license holder is unable to perform their duties as an officer in a fair manner; or

- conduct indicating a pattern of excessive use of force, abuse of official capacity, inappropriate relationships with persons in the license holder's custody, sexual harassment or sexual misconduct while performing their duties as an officer, or misuse of information obtained as a result of their employment as an officer and related to the enforcement of criminal offenses.

These provisions apply only to conduct that occurs on or after January 1, 2022.

H.B. 2844 includes that conduct among the reasons for termination or retirement or resignation in lieu of termination under which a license holder is considered dishonorably discharged for purposes of the required inclusion of whether a license holder was dishonorably discharged and a related explanation in an employment termination report. The bill requires the explanation included in the employment termination report regarding a license holder who resigned or retired to include information regarding any pending investigation known to internal affairs, supervisors, or management that was not completed due to the officer's resignation or retirement.

H.B. 2844 removes language conditioning the requirement for TCOLE to suspend an officer's license on notification that the officer has been dishonorably discharged on the officer having previously been dishonorably discharged from another law enforcement agency.

EFFECTIVE DATE

September 1, 2021.