

## **BILL ANALYSIS**

Senate Research Center  
87R845 JSC/SCL-D

S.B. 737  
By: Birdwell  
State Affairs  
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As Filed

### **AUTHOR'S / SPONSOR'S STATEMENT OF INTENT**

First responders, be they EMS, firefighters, etc., arrive on the scene to assist fellow Texans and, on occasion, enter some of the most dangerous and potentially violent situations in the public service sector. Currently, many of them are prohibited from carrying a firearm for their personal protection. S.B. 737 acknowledges these potential threats by giving certain first responders the ability to defend themselves while in the line of duty. S.B. 737 would make this a matter of right for first responders employed by governmental entities. The legislation allows first responders who already hold a license to carry a handgun from this state to do so while on duty after completing an additional training course administered by the Texas Department of Public Safety (DPS). In addition, this legislation protects a governmental entity from liability for any conduct related to the first responder's decision to carry while on duty.

As proposed, S.B. 737 amends current law relating to the carrying of a handgun by certain first responders.

### **RULEMAKING AUTHORITY**

Rulemaking authority is expressly granted to the public safety director of the Department of Public Safety of the State of Texas in SECTION 3 (Section 411.184, Government Code) of this bill.

### **SECTION BY SECTION ANALYSIS**

SECTION 1. Amends the heading to Section 112.001, Civil Practice and Remedies Code, to read as follows:

Sec. 112.001. CERTAIN ACTIONS OF FIRST RESPONDERS.

SECTION 2. Amends Sections 112.001(a), (b), and (c), Civil Practice and Remedies Code, as follows:

(a) Defines "first responder." Deletes existing text defining "volunteer emergency services personnel." Makes a nonsubstantive change.

(b) Provides that a governmental unit is not liable in a civil action arising from the discharge of a handgun by an individual who is a first responder, rather than volunteer emergency services personnel, and licensed to carry the handgun under Subchapter H (License to Carry a Handgun), Chapter 411 (Department of Public Safety of the State of Texas), Government Code.

(c) Makes conforming changes in this subsection.

SECTION 3. Amends Subchapter H, Chapter 411, Government Code, by adding Section 411.184, as follows:

Sec. 411.184. ON-DUTY FIRST RESPONDER TRAINING COURSE. (a) Defines "first responder."

(b) Requires the public safety director (director) of the Department of Public Safety of the State of Texas (DPS) by rule to establish minimum standards for a training course that a first responder who is a license holder is authorized to complete to receive a certification of completion from DPS under this section. Requires that the training course:

(1) be administered by a qualified handgun instructor;

(2) include not more than 20 hours of instruction;

(3) provide classroom training in certain techniques and methods relating to the use of handguns;

(4) provide field instruction in the use of handguns, including certain types of shooting;

(5) require physical demonstrations of proficiency in techniques learned in training; and

(6) provide procedures for securing and storing a handgun if the first responder, while on duty, is required to enter a location where carrying the handgun is prohibited by federal law or otherwise.

(c) Provides that a first responder is responsible for paying to the course provider the costs of the training course under this section.

(d) Requires the director by rule to approve devices to enable a first responder to secure and store a handgun if the first responder, while on duty, is required to enter a location where carrying the handgun is prohibited by federal law or otherwise.

(e) Requires DPS to issue a certificate of completion to a first responder who completes the training course described by Subsection (b).

(f) Prohibits a governmental entity that employs or otherwise supervises first responders from adopting a rule or regulation that prohibits a first responder who holds a license to carry a handgun under Subchapter H and who has received a certificate of completion from DPS under Subsection (e) from carrying a concealed or holstered handgun while on duty, or from storing a handgun on the premises of or in a vehicle owned or operated by the governmental entity if the handgun is secured with a device approved by DPS under Subsection (d).

(g) Authorizes a first responder to discharge a handgun while on duty only in self-defense.

(h) Provides that this section does not create a cause of action or liability.

(i) Provides that a governmental entity that employs or otherwise supervises first responders is not liable in a civil action arising from the discharge of a handgun by a first responder who is licensed to carry a handgun under this subchapter.

(j) Provides that the discharge of a handgun by a first responder who is licensed to carry a handgun under this subchapter is outside the course and scope of the first responder's duties.

(k) Prohibits this section from being construed to waive, under Chapter 101 (Tort Claims), Civil Practice and Remedies Code, or any other law, immunity from suit or liability of a governmental entity that employs or otherwise supervises first responders.

SECTION 4. Amends Section 30.06(f), Penal Code, to provide that it is a defense to prosecution under Section 30.06 (Trespass by License Holder with a Concealed Handgun) that the license holder is a first responder, rather than volunteer emergency services personnel, as defined by Section 46.01 (Definitions), who received a certificate of completion for a training course under Section 411.184, Government Code, before engaging in the applicable conduct, and who was engaged in the actual discharge of the first responder's duties while carrying the handgun.

SECTION 5. Amends Section 30.07(g), Penal Code, to provide that it is a defense to prosecution under Section 30.07 (Trespass by License Holder with an Openly Carried Handgun) that the license holder is a first responder, rather than volunteer emergency services personnel, as defined by Section 46.01, who received a certificate of completion for a training course under Section 411.184, Government Code, before engaging in the applicable conduct, and who was engaged in the actual discharge of the first responder's duties while carrying the handgun.

SECTION 6. Amends Section 46.01(18), Penal Code, to define "first responder" for Chapter 46 (Weapons), and to delete existing text defining "volunteer emergency services personnel."

SECTION 7. Amends Section 46.035(m), Penal Code, as follows:

(m) Provides that it is a defense to prosecution under Subsections (b) and (c) (relating to the offense of intentionally, knowingly, or recklessly carrying a handgun in certain restricted areas) that the license holder is a first responder who was carrying the handgun in a concealed manner or in a shoulder or belt holster; who received a certificate of completion for a training course under Section 411.184, Government Code, before engaging in the applicable conduct; and who was engaged in the actual discharge of the first responder's duties while carrying the handgun. Deletes existing text providing that it is a defense to prosecution under Subsections (b) and (c) that the actor is volunteer emergency services personnel engaged in providing emergency services.

SECTION 8. Amends Section 46.15(a), Penal Code, as follows:

(a) Provides that Sections 46.02 (Unlawful Carrying Weapons) and 46.03 (Places Weapons Prohibited) do not apply to certain persons, including a first responder who is carrying the handgun in a concealed manner or in a shoulder or belt holster; who holds a license to carry a handgun under Subchapter H, Chapter 411, Government Code; who received a certificate of completion for a training course under Section 411.184, Government Code, before engaging in the applicable conduct; and who is engaged in the actual discharge of the first responder's duties while carrying the handgun. Makes conforming and nonsubstantive changes.

SECTION 9. Requires the director to adopt the rules necessary to implement Section 411.184, Government Code, as added by this Act, not later than December 1, 2021.

SECTION 10. Prohibits a qualified handgun instructor from offering the training course described by Section 411.184(b), Government Code, as added by this Act, before January 1, 2022.

SECTION 11. Makes application of Section 112.001, Civil Practice and Remedies Code, as amended by this Act, prospective to September 1, 2021.

SECTION 12. Makes application of Sections 30.06, 30.07, 46.035, and 46.15, Penal Code, as amended by this Act, prospective to September 1, 2022.

SECTION 13. (a) Effective date, except as otherwise provided by Subsection (b): September 1, 2021.

(b) Effective date, Sections 30.06, 30.07, 46.035, and 46.15, Penal Code, as amended by this Act: September 1, 2022.