

## **BILL ANALYSIS**

Senate Research Center  
87R18773 JSC-D

C.S.S.B. 737  
By: Birdwell  
State Affairs  
4/9/2021  
Committee Report (Substituted)

### **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.

(Original Author's / Sponsor's Statement of Intent)

C.S.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.

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### **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 AND VOLUNTEER EMERGENCY SERVICES PERSONNEL.

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

(a) Defines "first responder." 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 certain individuals, including an individual who is a first responder, 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. Makes a nonsubstantive change.

(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. TRAINING COURSE FOR CERTAIN FIRST RESPONDERS.

(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 an initial training course that a first responder who is a license holder and who is employed or supervised by a county or municipality to which Chapter 179, Local Government Code, applies 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 40 hours of instruction;

(3) provide classroom training in self-defense, de-escalation techniques, and 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) Requires DPS by rule to establish minimum standards for an annual continuing education course that is administered by a qualified handgun instructor and includes not more than 10 hours of instruction for a person who has completed the initial training course described by Subsection (b).

(d) Requires DPS to issue a certificate of completion to a first responder who is a license holder and who completes the initial training course under Subsection (b) or the continuing education course under Subsection (c), as applicable. Provides that a certificate of completion expires on the first anniversary of issuance.

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

(f) 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.

SECTION 4. Amends Subtitle C, Title 5, Local Government Code, by adding Chapter 179, as follows:

CHAPTER 179. AUTHORITY OF CERTAIN FIRST RESPONDERS TO CARRY HANDGUN

SUBCHAPTER A. GENERAL PROVISIONS

Sec. 179.001. DEFINITIONS. Defines "department," "first responder," and "handgun."

Sec. 179.002. APPLICABILITY OF CHAPTER. Provides that this chapter applies only to a municipality with a population of 30,000 or less that has not adopted Chapter 174

(Fire and Police Employee Relations), and a county with a population of 250,000 or less that has not adopted Chapter 174.

Sec. 179.003. CONSTRUCTION OF CHAPTER. (a) Provides that this chapter does not create a cause of action or liability.

(b) Prohibits this chapter from being construed to waive, under Chapter 101 (Tort Claims), Civil Practice and Remedies Code, or any other law, a municipality's or county's governmental immunity from suit or to liability.

#### SUBCHAPTER B. AUTHORITY AND REQUIREMENTS TO CARRY HANDGUN

Sec. 179.051. AUTHORITY OF MUNICIPALITY OR COUNTY TO PROHIBIT OR REGULATE CARRYING HANDGUN. (a) Prohibits a municipality or county to which this chapter applies and 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 license to carry a handgun under Subchapter H, Chapter 411, Government Code, an unexpired certificate of completion from DPS under Section 411.184(d), Government Code, and the required liability policy under Section 179.053 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 leased by the municipality or county if the handgun is secured with a device approved by DPS under Section 411.184(f), Government Code.

(b) Provides that this section does not prohibit a municipality or county from adopting an ordinance, order, or other measure that prohibits a first responder from carrying a handgun while on duty based on the conduct of the first responder, or that 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.

Sec. 179.052. AUTHORITY OF EMPLOYERS AND SUPERVISORS. (a) Authorizes a municipal or county department or private entity that employs or supervises first responders providing services for a municipality or county to which this chapter applies to adopt a policy authorizing a first responder who is employed or supervised by the municipal or county department or private entity and who holds a license to carry a handgun under Subchapter H, Chapter 411, Government Code, an unexpired certificate of completion from DPS under Section 411.184(d), Government Code, and the required liability policy under Section 179.053 to:

(1) carry a concealed or holstered handgun while on duty; or

(2) store a handgun on the premises of or in a vehicle owned or leased by the applicable municipality or county, or by the private entity if the handgun is secured with a device approved by DPS under Section 411.184(f), Government Code.

(b) Prohibits a first responder employed or supervised by a municipal or county department or private entity from engaging in conduct described by Subsection (a)(1) or (2) unless the municipal or county department or private entity has adopted a policy under Subsection (a) that authorizes that conduct.

Sec. 179.053. LIABILITY INSURANCE REQUIRED. Requires 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, and if the handgun is not an essential part of the first responder's duties.

Sec. 179.054. STORAGE OF HANDGUN. (a) Requires a first responder who enters a location where carrying a handgun is prohibited by federal law or otherwise to use a device approved by DPS under Section 411.184(f), Government Code, to secure and store the handgun.

(b) Provides that a first responder is responsible for procuring the device approved by DPS under Section 411.184(f), Government Code, or for reimbursing the first responder's employer or supervisor for the use of a device provided by the employer or supervisor.

Sec. 179.055. DISCHARGE OF HANDGUN. Authorizes a first responder to discharge a handgun while on duty only in self-defense.

Sec. 179.056. LIMITED LIABILITY. (a) Provides that a municipality or county that employs or 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 the handgun under Subchapter H, Chapter 411, Government Code.

(b) Provides that the discharge of a handgun by a first responder who is licensed to carry a handgun under Subchapter H, Chapter 411, Government Code, is outside the course and scope of the first responder's duties.

Sec. 179.057. COMPLAINTS. Authorizes a member of the public to submit a complaint to the municipality or county employing or supervising the first responder using the municipality's or county's existing complaint procedure. Provides 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.

SECTION 5. Amends Section 30.06, Penal Code, by adding Subsection (f-1), as follows:

(f-1) Provides 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, as defined by Section 46.01, who:

- (1) holds an unexpired certificate of completion under Section 411.184, Government Code, at the time of engaging in the applicable conduct;
- (2) was engaged in the actual discharge of the first responder's duties while carrying the handgun; and
- (3) was employed or supervised by a municipality or county to which Chapter 179, Local Government Code, applies.

SECTION 6. Amends Section 30.07, Penal Code, by adding Subsection (g-1), as follows:

(g-1) Provides 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, as defined by Section 46.01, who:

- (1) holds an unexpired certificate of completion under Section 411.184, Government Code, at the time of engaging in the applicable conduct;
- (2) was engaged in the actual discharge of the first responder's duties while carrying the handgun; and
- (3) was employed or supervised by a municipality or county to which Chapter 179, Local Government Code, applies.

SECTION 7. Amends Section 46.01, Penal Code, by adding Subdivision (20) to define "first responder."

SECTION 8. Amends Section 46.15, Penal Code, by adding Subsection (m), as follows:

(m) Provides that Sections 46.02 (Unlawful Carrying Weapons), 46.03 (Places Weapons Prohibited), and 46.035(b) and (c) (relating to carrying a handgun on certain premises constituting an offense) do not apply to a first responder who:

- (1) was carrying a handgun in a concealed manner or in a shoulder or belt holster;
- (2) holds an unexpired certificate of completion under Section 411.184, Government Code, at the time of engaging in the applicable conduct;
- (3) was engaged in the actual discharge of the first responder's duties while carrying the handgun; and
- (4) was employed or supervised by a municipality or county to which Chapter 179, Local Government Code, applies.

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, and 46.15, Penal Code, as amended by this Act, prospective.

SECTION 13. Effective date: September 1, 2021.