87R3270 MAW/JCG-D

By:  White H.B. No. 1396

A BILL TO BE ENTITLED

AN ACT

relating to law enforcement agencies and policies and procedures affecting peace officers.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

SECTION 1.  Chapter 2, Code of Criminal Procedure, is amended by adding Article 2.1397 to read as follows:

Art. 2.1397.  DUTIES OF LAW ENFORCEMENT AGENCY REGARDING PEACE OFFICER MISCONDUCT; DATABASE. (a) In this article:

(1)  "Commission" means the Texas Commission on Law Enforcement.

(2)  "Law enforcement agency" means an agency of this state or an agency of a political subdivision of this state authorized by law to employ peace officers.

(b)  Each law enforcement agency in this state shall report to the commission each incident of misconduct by a peace officer employed by the agency, including:

(1)  a conviction for a criminal offense committed in the course of performing the officer's duties; or

(2)  the use of excessive force against a person suspected of committing an offense.

(c)  In reporting an incident of misconduct under Subsection (b), the law enforcement agency shall also report whether the agency terminated or took disciplinary action against the peace officer or permitted the peace officer to retire or resign in lieu of termination for the misconduct.

(d)  The commission shall establish a database for information reported to the commission under this article.

(e)  The commission shall make information in the database accessible by all law enforcement agencies in this state.

(f)  The commission may make information regarding an incident of misconduct that is maintained in the database available to a federal law enforcement agency that is investigating the incident.

(g)  Information maintained in the database is confidential and not subject to disclosure under Chapter 552, Government Code.

(h)  Not later than March 1 of each year, the commission shall make available on its Internet website a report regarding incidents of misconduct reported during the preceding calendar year. The report must include:

(1)  the total number of incidents reported to the commission under this article during that period; and

(2)  information regarding:

(A)  the most common types of misconduct reported; and

(B)  disciplinary action taken by the law enforcement agency, including termination or permitting the peace officer to retire or resign in lieu of termination.

(i)  A report under Subsection (h) may not include information identifying a specific peace officer.

SECTION 2.  Subchapter A, Chapter 772, Government Code, is amended by adding Section 772.0055 to read as follows:

Sec. 772.0055.  LIMITATION ON ELIGIBILITY FOR GRANT. (a) In this section, "law enforcement agency" means an agency of this state or an agency of a political subdivision of this state authorized by law to employ peace officers.

(b)  Notwithstanding any other law, to be eligible to receive a grant or other discretionary funding by the governor, a law enforcement agency must:

(1)  consistently report incidents of misconduct as required by Article 2.1397, Code of Criminal Procedure; and

(2)  maintain a current certification, issued by a credentialing entity designated under Section 1701.165(d), Occupations Code, certifying that the agency's policies regarding use of force by peace officers:

(A)  comply with all applicable laws; and

(B)  prohibit the use of choke holds or other physical maneuvers to restrict a person's ability to breathe for purpose of incapacitation unless the officer is justified in using deadly force against the person.

(c)  For purposes of Subsection (b)(1), on request, the Texas Commission on Law Enforcement shall provide information to the governor's office regarding reporting of incidents of misconduct by a law enforcement agency.

SECTION 3.  Subchapter D, Chapter 1701, Occupations Code, is amended by adding Sections 1701.165 and 1701.166 to read as follows:

Sec. 1701.165.  ADVISORY COMMITTEE ON LAW ENFORCEMENT AGENCY CREDENTIALING ENTITIES. (a) The commission shall establish an advisory committee to advise the commission regarding law enforcement agency credentialing entities.

(b)  The advisory committee must include representatives of:

(1)  municipal and county law enforcement agencies, including agencies of varying size and from different areas of this state;

(2)  the Department of Public Safety;

(3)  the Texas Department of Criminal Justice; and

(4)  entities that operate correctional facilities under contract with a county or the Texas Department of Criminal Justice.

(c)  The advisory committee shall review entities that provide credentialing to law enforcement agencies and identify credentialing entities that, at a minimum, establish standards and processes for reviewing adherence to the standards in the following aspects of a law enforcement agency's operations:

(1)  policies and training regarding use of force and de-escalation techniques;

(2)  performance management tools;

(3)  procedures to ensure prompt identification of peace officers requiring intervention; and

(4)  best practices regarding community engagement.

(d)  The commission shall designate, for purposes of certifying that the policies of a law enforcement agency comply with the requirements of Section 772.0055(b)(2), Government Code, one or more of the credentialing entities identified by the advisory committee under Subsection (c).

Sec. 1701.166.  COORDINATED RESPONSE PROGRAM MODEL POLICY. (a) In this section, "coordinated response program" means a program operated by a law enforcement agency in which a peace officer and a mental health professional jointly respond to a report of an alleged offense or other incident involving a person with a mental impairment, suffering from homelessness, or experiencing similar circumstances.

(b)  The commission, in consultation with the Health and Human Services Commission and state and local law enforcement agencies, shall develop and make available to all law enforcement agencies in this state a model policy and associated training materials regarding the operation of a coordinated response program.

(c)  In developing the model policy, the commission shall:

(1)  survey coordinated response programs implemented in this state or another state; and

(2)  consider the creation of specialized training programs for officers and mental health professionals participating in a coordinated response program.

SECTION 4.  (a) Not later than January 1, 2022, the Texas Commission on Law Enforcement shall:

(1)  establish the database required by Article 2.1397, Code of Criminal Procedure, as added by this Act;

(2)  establish the advisory committee required by Section 1701.165, Occupations Code, as added by this Act; and

(3)  develop and make available the model policy and associated training materials required by Section 1701.166, Occupations Code, as added by this Act.

(b)  Not later than June 1, 2022, the Texas Commission on Law Enforcement shall designate one or more credentialing entities as required by Section 1701.165, Occupations Code, as added by this Act.

SECTION 5.  Section 772.0055, Government Code, as added by this Act, applies only to a grant awarded by the office of the governor on or after September 1, 2022. A grant awarded before September 1, 2022, is governed by the law in effect immediately before the effective date of this Act, and the former law is continued in effect for that purpose.

SECTION 6.  This Act takes effect September 1, 2021.