By:  Huffman S.B. No. 24

(In the Senate - Filed March 11, 2021; March 11, 2021, read first time and referred to Committee on Jurisprudence; March 26, 2021, reported adversely, with favorable Committee Substitute by the following vote: Yeas 5, Nays 0; March 26, 2021, sent to printer.)

COMMITTEE VOTE

                    Yea Nay Absent  PNV

Huffman           X

Hinojosa             X

Creighton            X

Hughes               X

Johnson              X

COMMITTEE SUBSTITUTE FOR S.B. No. 24 By:  Hughes

A BILL TO BE ENTITLED

AN ACT

relating to the procedures required before a law enforcement agency hires a peace officer.

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

SECTION 1.  Section 143.089, Local Government Code, is amended by amending Subsection (g) and adding Subsection (h) to read as follows:

(g)  A fire or police department may maintain a personnel file on a fire fighter or police officer employed by the department for the department's use. Except as provided by Subsection (h), [~~but~~] the department may not release any information contained in the department file to any agency or person requesting information relating to a fire fighter or police officer. The department shall refer to the director or the director's designee a person or agency that requests information that is maintained in the fire fighter's or police officer's personnel file.

(h)  As provided by Section 1701.4511, Occupations Code, a law enforcement agency hiring a police officer is entitled to view the contents of the officer's personnel file maintained under Subsection (g).

SECTION 2.  The heading to Subchapter J, Chapter 1701, Occupations Code, is amended to read as follows:

SUBCHAPTER J. EMPLOYMENT RECORDS AND PREEMPLOYMENT PROCEDURE

SECTION 3.  The heading to Section 1701.451, Occupations Code, is amended to read as follows:

Sec. 1701.451.  PREEMPLOYMENT PROCEDURE: NON-PEACE OFFICER POSITIONS [~~REQUEST FOR EMPLOYMENT TERMINATION REPORT AND SUBMISSION OF BACKGROUND CHECK CONFIRMATION FORM~~].

SECTION 4.  Section 1701.451(a), Occupations Code, is amended to read as follows:

(a)  Before a law enforcement agency may hire a person licensed under this chapter for a position other than a peace officer position, the agency head or the agency head's designee must:

(1)  make a request to the commission for any employment termination report regarding the person that is maintained by the commission under this subchapter; and

(2)  submit to the commission on the form prescribed by the commission confirmation that the agency:

(A)  conducted in the manner prescribed by the commission a criminal background check regarding the person;

(B)  obtained the person's written consent on a form prescribed by the commission for the agency to view the person's employment records;

(C)  obtained from the commission any service or education records regarding the person maintained by the commission; and

(D)  contacted each of the person's previous law enforcement employers.

SECTION 5.  Subchapter J, Chapter 1701, Occupations Code, is amended by adding Section 1701.4511 to read as follows:

Sec. 1701.4511.  PREEMPLOYMENT PROCEDURE: PEACE OFFICER POSITIONS. (a) Before a law enforcement agency may hire a person licensed under this chapter for a peace officer position, the agency shall:

(1)  obtain the officer's written consent, on a form and in the manner prescribed by the commission, for the agency to review the information required to be reviewed under this section;

(2)  request from the commission and any other applicable person, on a form and in the manner prescribed by the commission, information required to be reviewed under this section; and

(3)  submit to the commission, on a form and in the manner prescribed by the commission, confirmation that the agency, to the best of the agency's ability before hiring the person:

(A)  contacted each entity or individual necessary to obtain the information required to be reviewed under this section; and

(B)  except as provided by Subsection (b), obtained and reviewed as related to the officer, as applicable:

(i)  personnel files and other employee records from each previous law enforcement agency employer, including the employment application submitted to the previous employer;

(ii)  employment termination reports maintained by the commission under this subchapter;

(iii)  service records maintained by the commission;

(iv)  proof that the officer meets the minimum qualifications for enrollment in a peace officer training program under Section 1701.255(c);

(v)  a military veteran's Department of Defense Form DD-214 or other military discharge record;

(vi)  criminal history record information;

(vii)  information on pending warrants as available through the Texas Crime Information Center and National Crime Information Center;

(viii)  evidence of financial responsibility as required by Section 601.051, Transportation Code;

(ix)  a driving record from the Department of Public Safety;

(x)  proof of U.S. citizenship; and

(xi)  information on the officer's background from at least three personal references and at least two professional references.

(b)  If an entity or individual contacted for information required to be reviewed under this section refused to provide the information or did not respond to the request for information, the confirmation submitted to the commission must document the manner of the request and the refusal or lack of response.

(c)  If the commission or a law enforcement agency receives a request for information and the officer's consent on the forms and in the manner prescribed by the commission, the commission or agency shall provide the information.

(d)  The confirmation form submitted to the commission under this section is not confidential and is subject to disclosure under Chapter 552, Government Code.

(e)  The commission shall:

(1)  by rule establish the forms and procedures required by this section, including:

(A)  the process by which a law enforcement agency shall make a person's employment records electronically available to a law enforcement agency hiring a police officer;

(B)  appropriate privacy and security protections for the process described by Paragraph (A); and

(C)  a rule prohibiting a confirmation form submitted to the commission under this section from containing confidential information described by Section 552.1175(b), Government Code, regarding the officer who is the subject of the confirmation form;

(2)  post the forms and procedures on the commission's Internet website; and

(3)  retain a record of each confirmation form submitted under this section.

(f)  The head of a law enforcement agency or the agency head's designee shall review and sign each confirmation form required under this section before submission to the commission. The failure of an agency head or the agency head's designee to comply with this subsection constitutes grounds for suspension of the agency head's license under Section 1701.501.

SECTION 6.  Section 1701.456(b), Occupations Code, is amended to read as follows:

(b)  A law enforcement agency, agency head, or other law enforcement official is not liable for civil damages for:

(1)  a report made by that agency or person if the report is made in good faith; or

(2)  making a person's information available to a hiring law enforcement agency under Section 1701.4511.

SECTION 7.  (a) Not later than January 1, 2022, the Texas Commission on Law Enforcement shall adopt the rules necessary to implement Section 1701.4511, Occupations Code, as added by this Act.

(b)  The changes in law made by this Act apply only to the hiring of a person by a law enforcement agency that occurs on or after January 1, 2022. The hiring of a person by a law enforcement agency that occurs before that date 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 8.  This Act takes effect September 1, 2021.

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