87R6291 JCG-D

By:  Paxton, et al. S.B. No. 711

A BILL TO BE ENTITLED

AN ACT

relating to the continuation and functions of the Texas Commission on Law Enforcement.

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

SECTION 1.  Section 1701.002, Occupations Code, is amended to read as follows:

Sec. 1701.002.  APPLICATION OF SUNSET ACT. The Texas Commission on Law Enforcement is subject to Chapter 325, Government Code (Texas Sunset Act). Unless continued in existence as provided by that chapter, the commission is abolished and this chapter expires September 1, 2023 [~~2021~~].

SECTION 2.  Section 1701.059, Occupations Code, is amended by amending Subsection (b) and adding Subsection (d) to read as follows:

(b)  The training program must provide the person with information regarding:

(1)  the law governing [~~legislation that created the~~] commission operations;

(2)  the programs, functions, rules, and budget of the commission;

(3)  the scope of and limitations on the rulemaking authority of the commission;

(4)  the results of the most recent formal audit of the commission;

(5) [~~(4)~~]  the requirements of:

(A)  laws relating to open meetings, public information, administrative procedure, and disclosing conflicts of interest; and

(B)  other laws applicable to members of a state policy-making body in performing their duties; and

(6) [~~(5)~~]  any applicable ethics policies adopted by the commission or the Texas Ethics Commission.

(d)  The executive director of the commission shall create a training manual that includes the information required by Subsection (b). The executive director shall distribute a copy of the training manual annually to each member of the commission. Each commission member shall sign and submit to the executive director a statement acknowledging that the member received and has reviewed the training manual.

SECTION 3.  Section 1701.151, Occupations Code, is amended to read as follows:

Sec. 1701.151.  GENERAL POWERS OF COMMISSION; RULEMAKING AUTHORITY. The commission may:

(1)  adopt rules for the administration of this chapter and for the commission's internal management and control;

(2)  establish minimum standards relating to competence and reliability, including education, training, physical, and mental[~~, and moral~~] standards, for licensing as an officer, county jailer, public security officer, or telecommunicator;

(3)  report to the governor and legislature on the commission's activities, with recommendations on matters under the commission's jurisdiction, and make other reports that the commission considers desirable;

(4)  require a state agency or a county, special district, or municipality in this state that employs officers, telecommunicators, or county jailers to submit reports and information;

(5)  contract as the commission considers necessary for services, facilities, studies, and reports required for:

(A)  cooperation with municipal, county, special district, state, and federal law enforcement agencies in training programs; and

(B)  performance of the commission's other functions; and

(6)  conduct research and stimulate research by public and private agencies to improve law enforcement and police administration.

SECTION 4.  Subchapter D, Chapter 1701, Occupations Code, is amended by adding Sections 1701.165, 1701.166, and 1701.167 to read as follows:

Sec. 1701.165.  ADVISORY COMMITTEES. (a) The commission may appoint advisory committees to perform advisory functions as determined by the commission.

(b)  A member of an advisory committee who is not a member of the commission may not receive compensation for service on the committee. The member may receive reimbursement for actual and necessary expenses incurred in performing committee functions as provided by Section 2110.004, Government Code.

(c)  A member of an advisory committee serves at the will of the commission.

Sec. 1701.166.  SUBPOENA. (a) The commission may request and, if necessary, compel by subpoena the production for inspection or copying of records, documents, and other evidence relevant to the investigation of an alleged violation of this chapter or a commission rule, other than a document described by Section 1701.457.

(b)  The commission, acting through the attorney general, may bring an action to enforce a subpoena issued under Subsection (a) against a person who fails to comply with the subpoena.

(c)  Venue for an action brought under Subsection (b) is in a district court in:

(1)  Travis County; or

(2)  any county in which the commission may conduct a hearing.

(d)  The court shall order compliance with the subpoena if the court finds that good cause exists to issue the subpoena.

Sec. 1701.167.  EXAMINATION OF LICENSE HOLDER. (a) The commission shall adopt rules specifying the circumstances under which the commission may request that a license holder submit to an examination described by Section 1701.306 by a psychologist, psychiatrist, or physician selected by the commission to determine whether the license holder continues to meet the standards required by that section.

(b)  If the license holder refuses to submit to the examination, the commission shall issue an order requiring the person to show cause for the person's refusal at a hearing on the order scheduled for not later than the 30th day after the date notice is served on the person. The commission shall provide notice under this section by personal service or by registered mail, return receipt requested.

(c)  At the hearing, the person may appear in person and by counsel and present evidence to justify the person's refusal to submit to examination. After the hearing, the commission shall issue an order requiring the person to submit to an examination under this section or withdrawing the request for the examination.

(d)  Unless the request is withdrawn, the commission may suspend the license of a person who refuses to submit to the examination.

(e)  An appeal from the commission's order under this section is governed by Chapter 2001, Government Code.

(f)  If the results of an examination under this section show that the person does not meet the standards of Section 1701.306(a), the commission shall suspend the person's license.

(g)  Records relating to a request or order of the commission or a hearing or examination conducted under this section, including, if applicable, the identity of the person notifying the commission that a license holder may not meet the standards required by Section 1701.306(a), are confidential and not subject to disclosure under Chapter 552, Government Code.

SECTION 5.  Section 1701.202, Occupations Code, is amended by amending Subsection (b) and adding Subsection (d) to read as follows:

(b)  Except as provided by Subsection (d), on [~~On~~] request, a license holder is entitled to [~~may~~] obtain information regarding a complaint made against the license holder under this chapter, including a complete copy of the complaint file. On receipt of a request under this subsection, the commission shall provide the requested information in a timely manner to allow the license holder time to respond to the complaint.

(d)  The commission is not required to provide the identity of any nontestifying complainant in response to a request under Subsection (b).

SECTION 6.  Sections 1701.203(a) and (c), Occupations Code, are amended to read as follows:

(a)  The commission shall maintain a system to promptly and efficiently act on [~~jurisdictional~~] complaints filed with the commission. The commission shall maintain information about parties to the complaint, the subject matter of the complaint, a summary of the results of the review or investigation of the complaint, and its disposition.

(c)  The commission shall periodically notify the complaint parties [~~to the complaint~~] of the status of the complaint until final disposition unless the notice would jeopardize an investigation.

SECTION 7.  Sections 1701.303(b) and (c), Occupations Code, are amended to read as follows:

(b)  A person who appoints an officer or county jailer licensed by the commission shall notify the commission not later than the 30th day after the date of the appointment. If the person appoints an individual who previously served as an officer or county jailer and the appointment occurs after the 180th day after the last date of service as an officer or county jailer, the person must have on file for the officer or county jailer, in a form readily accessible to the commission, [~~:~~

[~~(1)  new criminal history record information;~~

[~~(2)~~]  a new declaration of psychological and emotional health and lack of drug dependency or illegal drug use[~~; and~~

[~~(3)  two completed fingerprint cards~~].

(c)  A person who appoints or employs a telecommunicator licensed by the commission shall notify the commission not later than the 30th day after the date of the appointment or employment. [~~If the person appoints or employs an individual who previously served as a telecommunicator and the appointment or employment occurs after the 180th day after the last date of service as a telecommunicator, the person must have on file in a form readily accessible to the commission:~~

[~~(1)  new criminal history record information; and~~

[~~(2)  two completed fingerprint cards.~~]

SECTION 8.  Subchapter G, Chapter 1701, Occupations Code, is amended by adding Section 1701.3065 to read as follows:

Sec. 1701.3065.  CRIMINAL HISTORY RECORD INFORMATION FOR LICENSE ISSUANCE. (a) The commission shall require that an applicant for a license submit a complete and legible set of fingerprints, on a form prescribed by the commission, to the commission or to the Department of Public Safety for the purpose of obtaining criminal history record information from the Department of Public Safety and the Federal Bureau of Investigation.

(b)  The commission may not issue a license to a person who does not comply with the requirement of Subsection (a).

(c)  The commission shall conduct a criminal history record information check of each applicant for a license using information:

(1)  provided by the individual under this section; and

(2)  made available by the Department of Public Safety, the Federal Bureau of Investigation, and any other criminal justice agency under Chapter 411, Government Code.

(d)  The commission may:

(1)  enter into an agreement with the Department of Public Safety to administer a criminal history record information check required under this section; and

(2)  authorize the Department of Public Safety to collect from each applicant the costs incurred by the Department of Public Safety in conducting the criminal history record information check.

SECTION 9.  Section 1701.404(b), Occupations Code, is amended to read as follows:

(b)  The commission may certify a sheriff, sheriff's deputy, constable, other peace officer, county jailer, or justice of the peace as a special officer for offenders with mental impairments if the person:

(1)  completes a training course in emergency first aid and lifesaving techniques approved by the commission;

(2)  completes a training course administered by the commission on mental health issues and offenders with mental impairments; and

(3)  passes an examination administered by the commission that is designed to test the person's:

(A)  knowledge and recognition of the characteristics and symptoms of mental illness, intellectual disabilities [~~mental retardation~~], and developmental [~~mental~~] disabilities; and

(B)  knowledge of mental health crisis intervention strategies for people with mental impairments.

SECTION 10.  The heading to Subchapter K, Chapter 1701, Occupations Code, is amended to read as follows:

SUBCHAPTER K. DISCIPLINARY GROUNDS AND PROCEDURES

SECTION 11.  Subchapter K, Chapter 1701, Occupations Code, is amended by adding Section 1701.5011 to read as follows:

Sec. 1701.5011.  EMERGENCY SUSPENSION. (a) The commission shall adopt rules specifying the circumstances under which the commission may issue an emergency order, without a hearing, suspending a person's license for a period not to exceed 90 days after determining that the person constitutes an imminent threat to the public health, safety, or welfare.

(b)  An order suspending a license under this section must state the length of the suspension in the order.

(c)  If an emergency order is issued without a hearing under this section, the commission shall set the time and place for a hearing to be conducted not later than the 10th day after the date the order was issued. A hearing under this section to affirm, modify, or set aside the emergency order shall be conducted by the State Office of Administrative Hearings. The order shall be affirmed to the extent that good cause existed to issue the order.

(d)  The commission by rule may prescribe procedures for the determination and appeal of an emergency order issued under this section, including a rule allowing the commission to affirm, modify, or set aside a decision made by the State Office of Administrative Hearings under Subsection (c).

(e)  A proceeding under this section is a contested case under Chapter 2001, Government Code.

SECTION 12.  Chapter 1701, Occupations Code, is amended by adding Subchapter P to read as follows:

SUBCHAPTER P. PANEL TO REVIEW LAW ENFORCEMENT REGULATION

Sec. 1701.721.  DEFINITION. In this subchapter, "panel" means the panel established under Section 1701.722.

Sec. 1701.722.  PANEL ESTABLISHED; COMPOSITION. (a) A panel to study the regulation of persons licensed under this chapter and the entities authorized by law to employ those persons is established. The panel consists of the following 17 members:

(1)  nine members who are knowledgeable on criminal justice matters, including law enforcement personnel, representatives of victims' rights groups, educators, judges, and local elected officials, appointed as follows:

(A)  three members appointed by the governor;

(B)  three members appointed by the lieutenant governor; and

(C)  three members appointed by the speaker of the house of representatives;

(2)  three members who represent the public, one appointed by the governor, one appointed by the lieutenant governor, and one appointed by the speaker of the house of representatives;

(3)  the chair of the Senate Committee on Criminal Justice;

(4)  the chair of the House Committee on Homeland Security and Public Safety;

(5)  the chair of the board of the Texas District and County Attorneys Association or the chair's designee; and

(6)  as nonvoting members:

(A)  the executive director of the commission; and

(B)  the attorney general or the attorney general's designee.

(b)  In appointing members of the panel under Subsection (a)(1), the governor, lieutenant governor, and speaker of the house of representatives shall each appoint:

(1)  one representative of a rural county or a small municipality; and

(2)  one representative of a law enforcement agency.

(c)  The governor shall designate a chair and vice chair of the panel. The panel shall meet at the call of the chair.

Sec. 1701.723.  ADVISORY COMMITTEES. The panel may establish one or more advisory committees to assist the panel in its duties under this subchapter. Advisory committee members may include any person with knowledge or experience relevant to the study conducted under Section 1701.729.

Sec. 1701.724.  OPEN MEETINGS; PUBLIC HEARINGS. (a) The panel, and any advisory committee established by the panel, is subject to Chapter 551, Government Code.

(b)  Notwithstanding Chapter 551, Government Code, or any other law, the panel and any advisory committee may meet by telephone conference call, videoconference, or other similar telecommunication method. A meeting held under this subsection by telephone conference call, videoconference, or other similar telecommunication method is subject to the requirements of Sections 551.125(c)-(f), Government Code.

(c)  The panel shall hold a public hearing at least once every month to solicit testimony and provide information to the public regarding the work of the panel.

Sec. 1701.725.  CONFIDENTIALITY OF CERTAIN DOCUMENTS. Preliminary drafts of the final report and legislative recommendations, memoranda of panel members expressing opinions, formulations, or recommendations, and panel members' notes and correspondence with individuals who are not panel members are confidential and not subject to disclosure under Chapter 552, Government Code.

Sec. 1701.726.  SUBPOENA. (a) The panel may issue a subpoena as provided by this section.

(b)  The panel may request and, if necessary, compel by subpoena:

(1)  the production for inspection and copying of documents and other records relevant to the panel's duties under this subchapter; and

(2)  the attendance of a witness for examination under oath.

(c)  A subpoena under this section may be issued throughout this state and may be served by any person designated by the panel.

(d)  The panel, acting through the attorney general, may bring an action to enforce a subpoena issued under this section against a person who fails to comply with the subpoena.

(e)  Venue for an action brought under this section is in a district court in:

(1)  Travis County; or

(2)  any county in which the commission may conduct a hearing.

(f)  The court shall order compliance with the subpoena if the court finds that good cause exists to issue the subpoena.

Sec. 1701.727.  REIMBURSEMENT. A member of the panel or an advisory committee of the panel is not entitled to compensation for service on the panel or on an advisory committee of the panel but may be reimbursed for travel and other reasonable and necessary expenses incurred in connection with the member's service on the panel or advisory committee as provided by the General Appropriations Act.

Sec. 1701.728.  ASSISTANCE BY COMMISSION. The commission shall provide facilities and administrative support as reasonably necessary for the panel to carry out its duties.

Sec. 1701.729.  STUDY. The panel shall study and make recommendations regarding the regulation of persons licensed under this chapter and entities authorized by law to employ those persons. In conducting the study, the panel shall consider the following:

(1)  the standards of conduct applicable to persons licensed under this chapter, including whether statewide standards should be developed and who should develop, review, and update those standards;

(2)  the education and training requirements for persons licensed under this chapter, including:

(A)  the requirements for the issuance of each type of license and the frequency with which those requirements are reviewed and updated; and

(B)  the continuing education requirements for each type of license and the frequency with which those requirements are reviewed and updated;

(3)  the commission's regulation of training programs and schools; and

(4)  the accountability to the public of persons licensed under this chapter and of entities authorized by law to employ persons licensed under this chapter, including:

(A)  the need for statewide standards applicable to the entities and who should develop, review, and update those standards;

(B)  changes to the commission's authority to discipline a license holder for violations of law or other misconduct;

(C)  appropriate procedures to protect a license holder's rights during a disciplinary proceeding; and

(D)  the reporting of terminations under Subchapter J.

Sec. 1701.730.  REPORT; CERTAIN VOTES REQUIRED. (a) Not later than June 1, 2022, the panel shall deliver a report to the governor, the lieutenant governor, the speaker of the house of representatives, each member of the legislature, and the Sunset Advisory Commission on the areas of study described by Section 1701.729, including any legislative recommendations adopted by the panel.

(b)  A legislative recommendation may be adopted by a majority vote of a quorum of the panel.

(c)  The report under this section may be issued only if the report is adopted by a two-thirds vote of the total membership of the panel.

Sec. 1701.731.  EXPIRATION. The panel is abolished and this subchapter expires December 31, 2022.

SECTION 13.  (a) Except as provided by Subsection (b) of this section, Section 1701.059, Occupations Code, as amended by this Act, applies to a member of the Texas Commission on Law Enforcement appointed before, on, or after the effective date of this Act.

(b)  A member of the Texas Commission on Law Enforcement who, before the effective date of this Act, completed the training program required by Section 1701.059, Occupations Code, as that law existed before the effective date of this Act, is only required to complete additional training on the subjects added by this Act to the training program required by Section 1701.059, Occupations Code. A commission member described by this subsection may not vote, deliberate, or be counted as a member in attendance at a meeting of the commission held on or after December 1, 2021, until the member completes the additional training.

SECTION 14.  (a) Notwithstanding Section 1701.317, Occupations Code, not later than September 1, 2024, the Texas Commission on Law Enforcement shall conduct a criminal history record information check in the manner provided by Section 1701.3065, Occupations Code, as added by this Act, on each person who on September 1, 2021, holds a license issued under Chapter 1701, Occupations Code.

(b)  The Texas Commission on Law Enforcement may suspend the license of a person who holds a license under Chapter 1701, Occupations Code, who does not comply with a request by the commission to provide information or fingerprints, in a form and manner prescribed by the commission, that would enable the commission to conduct the criminal history record information check as required by this section.

(c)  The Texas Commission on Law Enforcement may adopt rules to implement this section, including rules to stagger the implementation of this section.

SECTION 15.  Not later than September 1, 2021, the governor, lieutenant governor, and speaker of the house of representatives shall appoint members to the panel in accordance with Section 1701.722, Occupations Code, as added by this Act.

SECTION 16.  (a) For purposes of Section 1701.002, Occupations Code, as amended by this Act, the Sunset Advisory Commission shall conduct a limited-scope review of the Texas Commission on Law Enforcement for the 88th Legislature. The review must provide:

(1)  an update on the progress of the Texas Commission on Law Enforcement in implementing the recommendations made by the Sunset Advisory Commission to the 87th Legislature; and

(2)  an evaluation of any legislative recommendations related to the Texas Commission on Law Enforcement made by the panel established under Subchapter P, Chapter 1701, Occupations Code, as added by this Act.

(b)  The Sunset Advisory Commission's recommendations to the 88th Legislature may include any recommendation the commission considers appropriate based on the limited-scope review conducted under this section.

SECTION 17.  This Act takes effect September 1, 2021.