

By: Thompson of Harris

H.B. No. 829

A BILL TO BE ENTITLED

AN ACT

relating to a progressive disciplinary matrix for police officer misconduct in certain municipalities.

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

SECTION 1. Subchapter B, Chapter 142, Local Government Code, is amended by adding Section 142.0605 to read as follows:

Sec. 142.0605. PROGRESSIVE DISCIPLINARY MATRIX. (a) A public employer shall implement a progressive disciplinary matrix, as described by Section 143.0511, for municipal police officers if the municipality has not adopted Chapter 143.

(b) The public employer shall adopt rules necessary to implement the progressive disciplinary matrix.

SECTION 2. Section 142.067, Local Government Code, is amended to read as follows:

Sec. 142.067. AGREEMENT SUPERSEDES CONFLICTING PROVISIONS.

(a) Except as provided by Subsection (b), a [A] written meet and confer agreement ratified under this subchapter preempts, during the term of the agreement and to the extent of any conflict, all contrary state statutes, local ordinances, executive orders, civil service provisions, or rules adopted by the head of the law enforcement agency or municipality or by a division or agent of the municipality, such as a personnel board or a civil service commission.

(b) An agreement under this subchapter:

1 (1) must implement the progressive disciplinary
2 matrix established under Section 142.0605 or 143.0511; and

3 (2) may not conflict with and does not supersede a
4 statute, ordinance, order, civil service provision, or rule
5 concerning the disciplinary actions that may be imposed on a police
6 officer under the progressive disciplinary matrix.

7 SECTION 3. Section 143.003, Local Government Code, is
8 amended by adding Subdivision (6) to read as follows:

9 (6) "Progressive disciplinary matrix" means a formal
10 schedule for disciplinary actions that may be taken against a
11 police officer as described by Section 143.0511.

12 SECTION 4. Section 143.008, Local Government Code, is
13 amended by amending Subsection (c) and adding Subsection (c-1) to
14 read as follows:

15 (c) The commission shall adopt rules that prescribe cause
16 for removal or suspension of a fire fighter [~~or police officer~~]. The
17 rules must comply with the grounds for removal prescribed by
18 Section 143.051.

19 (c-1) The commission shall adopt rules that prescribe the
20 disciplinary actions that may be taken against a police officer
21 under a progressive disciplinary matrix.

22 SECTION 5. Subchapter D, Chapter 143, Local Government
23 Code, is amended by adding Section 143.0511 to read as follows:

24 Sec. 143.0511. PROGRESSIVE DISCIPLINARY MATRIX. (a) The
25 commission shall implement a progressive disciplinary matrix for
26 infractions committed by police officers that consists of a range
27 of progressive disciplinary actions applied in a standardized way

1 based on the nature of the infraction and the officer's prior
2 conduct record, including removal, suspension, change of duty or
3 assignment, demotion, deduction of points from a promotional
4 examination grade, retraining, a written warning, or a written
5 reprimand.

6 (b) The progressive disciplinary matrix must include:

7 (1) standards for disciplinary actions relating to the
8 use of force against another person, including the failure to
9 de-escalate force incidents in accordance with departmental
10 policy;

11 (2) standards for evaluating the level of discipline
12 appropriate for uncommon infractions; and

13 (3) presumptive actions to be taken for each type of
14 infraction and any adjustment to be made based on a police officer's
15 previous disciplinary record.

16 SECTION 6. Section 143.057, Local Government Code, is
17 amended by amending Subsection (a) and adding Subsection (b-1) to
18 read as follows:

19 (a) In addition to the other notice requirements prescribed
20 by this chapter, the written notice for a promotional bypass or the
21 letter of disciplinary action, as applicable, issued to a fire
22 fighter or police officer must state that in an appeal of an
23 indefinite suspension, a suspension, a promotional bypass, ~~or~~ a
24 recommended demotion, or, if issued to a police officer, any other
25 disciplinary sanction, the appealing fire fighter or police officer
26 may elect to appeal to an independent third party hearing examiner
27 instead of to the commission. The letter must also state that if the

1 fire fighter or police officer elects to appeal to a hearing
2 examiner, the person waives all rights to appeal to a district court
3 except as provided by Subsection (j).

4 (b-1) A hearing examiner must presume a disciplinary action
5 applied to a police officer under a progressive disciplinary matrix
6 is reasonable unless the facts indicate that the department
7 inappropriately applied a category of offense to the particular
8 violation.

9 SECTION 7. Section 143.307, Local Government Code, is
10 amended by amending Subsections (a) and (b) and adding Subsection
11 (d) to read as follows:

12 (a) Except as provided by Subsection (d), an [~~An~~] agreement
13 under this subchapter supersedes a previous statute concerning
14 wages, salaries, rates of pay, hours of work, or other terms and
15 conditions of employment to the extent of any conflict with the
16 statute.

17 (b) Except as provided by Subsection (d), an [~~An~~] agreement
18 under this subchapter preempts any contrary statute, executive
19 order, local ordinance, or rule adopted by the state or a political
20 subdivision or agent of the state, including a personnel board, a
21 civil service commission, or a home-rule municipality.

22 (d) An agreement under this subchapter affecting police
23 officers:

24 (1) must implement the progressive disciplinary
25 matrix established under Section 143.0511; and

26 (2) may not conflict with and does not supersede a
27 statute, order, ordinance, or rule concerning the disciplinary

1 actions that may be imposed on a police officer under the
2 progressive disciplinary matrix.

3 SECTION 8. Section 143.361, Local Government Code, is
4 amended by amending Subsections (a) and (b) and adding Subsection
5 (d) to read as follows:

6 (a) Except as provided by Subsection (d), a [A] written
7 agreement ratified under this subchapter between a public employer
8 and the bargaining agent supersedes a previous statute concerning
9 wages, salaries, rates of pay, hours of work, and other terms of
10 employment other than pension benefits to the extent of any
11 conflict with the previous statute.

12 (b) Except as provided by Subsection (d), a [A] written
13 agreement ratified under this subchapter preempts all contrary
14 local ordinances, executive orders, legislation, or rules adopted
15 by the state or a political subdivision or agent of the state, such
16 as a personnel board, a civil service commission, or a home-rule
17 municipality.

18 (d) An agreement under this subchapter affecting police
19 officers:

20 (1) must implement the progressive disciplinary
21 matrix established under Section 143.0511; and

22 (2) may not conflict with and does not supersede an
23 ordinance, order, statute, or rule concerning the disciplinary
24 actions that may be imposed on a police officer under the
25 progressive disciplinary matrix.

26 SECTION 9. Section 174.005, Local Government Code, is
27 amended to read as follows:

1 Sec. 174.005. PREEMPTION OF OTHER LAW. (a) Except as
2 provided by Subsection (b), this [~~This~~] chapter preempts all
3 contrary local ordinances, executive orders, legislation, or rules
4 adopted by the state or by a political subdivision or agent of the
5 state, including a personnel board, civil service commission, or
6 home-rule municipality.

7 (b) This chapter does not authorize the adoption or
8 implementation of an agreement that conflicts with an ordinance,
9 order, statute, or rule concerning the disciplinary actions that
10 may be imposed on municipal police officers under a progressive
11 disciplinary matrix implemented by the municipal public employer.

12 SECTION 10. Subchapter B, Chapter 174, Local Government
13 Code, is amended by adding Section 174.024 to read as follows:

14 Sec. 174.024. PROGRESSIVE DISCIPLINARY MATRIX FOR CERTAIN
15 POLICE OFFICERS. (a) A municipal public employer shall implement a
16 progressive disciplinary matrix, as described by Section 143.0511,
17 for municipal police officers if the municipality has not adopted
18 Chapter 143.

19 (b) The municipal public employer shall adopt rules
20 necessary to implement the progressive disciplinary matrix.

21 SECTION 11. The changes in law made by this Act to the Local
22 Government Code apply only to a disciplinary action for conduct
23 that occurs on or after March 1, 2022. Conduct that occurs before
24 that date is governed by the law in effect immediately before that
25 date, and the former law is continued in effect for that purpose.

26 SECTION 12. Sections 142.067(b), 143.307(d), 143.361(d),
27 and 174.005(b), Local Government Code, as added by this Act, apply

1 only to an agreement entered into or renewed on or after March 1,
2 2022. An agreement entered into or renewed before March 1, 2022, is
3 governed by the law in effect on the date the agreement was entered
4 into or renewed, and the former law is continued in effect for that
5 purpose.

6 SECTION 13. (a) The Bill Blackwood Law Enforcement
7 Management Institute of Texas shall consult with law enforcement
8 agencies of all sizes, law enforcement associations, law
9 enforcement training experts, and appropriate organizations
10 engaged in the development of law enforcement policy to develop a
11 model progressive disciplinary matrix, as defined by Section
12 [143.003\(6\)](#), Local Government Code, as added by this Act, and
13 associated training materials regarding the application of that
14 matrix. The institute shall provide for a period of public comment
15 before adopting the model progressive disciplinary matrix and
16 training materials.

17 (b) Not later than January 1, 2022, the institute shall
18 adopt and disseminate the model progressive disciplinary matrix and
19 training materials to all law enforcement agencies and civil
20 service commissions in this state.

21 (c) This section expires September 1, 2022.

22 SECTION 14. This Act takes effect September 1, 2021.