

By: Muñoz, Jr.

H.B. No. 1123

A BILL TO BE ENTITLED

AN ACT

relating to sheriff's department civil service systems in certain counties; creating criminal offenses.

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

SECTION 1. Section 158.034, Local Government Code, is amended by amending Subsection (e) and adding Subsection (f) to read as follows:

(e) To be eligible for appointment to the commission, a person must:

(1) be at least 25 years old; ~~and~~

(2) have resided in the county for the three years immediately preceding the date on which the person's term will begin;

(3) be a United States citizen;

(4) be of good moral character;

(5) not have held a public office in the three years immediately preceding the date on which the person's term will begin; and

(6) not have served on the commission for more than six years.

(f) Subsection (e)(5) does not prohibit the appointment of a member if the only public office held by the member in the preceding three years is membership on the commission.

SECTION 2. Subchapter B, Chapter 158, Local Government

1 Code, is amended by adding Sections 158.0341 through 158.0344,
2 158.0352, and 158.0353 to read as follows:

3 Sec. 158.0341. REMOVAL OF COMMISSION MEMBER. (a) If at a
4 meeting held for that purpose the commissioners court of the county
5 finds that a commission member is guilty of misconduct in office,
6 the commissioners court may remove the member. The member may
7 request that the meeting be held as an open hearing in accordance
8 with Chapter 551, Government Code.

9 (b) If a commission member is indicted or charged by
10 information with a criminal offense involving moral turpitude, the
11 member is automatically suspended from office until the disposition
12 of the charge. Unless the member pleads guilty or is found to be
13 guilty, the member shall resume office at the time of disposition of
14 the charge.

15 (c) The commissioners court may appoint a substitute
16 commission member during a period of suspension.

17 (d) If a commission member pleads guilty to or is found to be
18 guilty of a criminal offense involving moral turpitude, the
19 commissioners court shall appoint a replacement commission member
20 to serve the remainder of the disqualified member's term of office.

21 Sec. 158.0342. COMMISSION INVESTIGATIONS AND INSPECTIONS.

22 (a) The commission or a commission member designated by the
23 commission may investigate and report on all matters relating to
24 the enforcement and effect of this subchapter and any rules adopted
25 under this subchapter and shall determine if the subchapter and
26 rules are being obeyed.

27 (b) During an investigation, the commission or the

1 commission member may:

2 (1) administer oaths;

3 (2) issue subpoenas to compel the attendance of
4 witnesses and the production of books, papers, documents, and
5 accounts relating to the investigation; and

6 (3) cause the deposition of witnesses residing inside
7 or outside the state.

8 (c) A deposition taken in connection with an investigation
9 under this section must be taken in the manner prescribed by law for
10 taking a similar deposition in a civil action in federal district
11 court.

12 (d) An oath administered or a subpoena issued under this
13 section has the same force and effect as an oath administered by a
14 magistrate in the magistrate's judicial capacity.

15 (e) A person who fails to respond to a subpoena issued under
16 this section commits an offense punishable as prescribed by Section
17 158.0343.

18 Sec. 158.0343. CRIMINAL PENALTY FOR VIOLATION OF
19 SUBCHAPTER. (a) A person subject to the provisions of this
20 subchapter commits an offense if the person violates this
21 subchapter.

22 (b) An offense under this section is a misdemeanor
23 punishable by a fine of not less than \$10 or more than \$1,000,
24 confinement in the county jail for not more than 30 days, or both
25 fine and confinement.

26 Sec. 158.0344. DECISIONS AND RECORDS. (a) Each concurring
27 commission member shall sign a decision issued by the commission.

1 (b) The commission shall keep records of each hearing or
2 case that comes before the commission.

3 (c) Each rule, opinion, directive, decision, or order
4 issued by the commission:

5 (1) must be in writing; and

6 (2) is a public record that the commission shall
7 retain on file.

8 Sec. 158.0352. DISCIPLINARY SUSPENSIONS. (a) The sheriff
9 may suspend an employee for the violation of a civil service rule.
10 The suspension may be for a reasonable period not to exceed 15
11 calendar days or for an indefinite period. An indefinite
12 suspension is equivalent to dismissal from the department.

13 (b) If the sheriff suspends an employee, the sheriff shall,
14 within 120 hours after the hour of suspension, file a written
15 statement with the commission giving the reasons for the
16 suspension. The sheriff shall immediately deliver a copy of the
17 statement in person to the suspended employee.

18 (c) The copy of the written statement must inform the
19 suspended employee that if the employee wants to appeal to the
20 commission, the employee must file a written appeal with the
21 commission within 10 days after the date the employee receives the
22 copy of the statement.

23 (d) The written statement filed by the sheriff with the
24 commission must point out each civil service rule alleged to have
25 been violated by the suspended employee and must describe the
26 alleged acts of the employee that the sheriff contends are in
27 violation of the civil service rules. It is not sufficient for the

1 sheriff merely to refer to the provisions of the rules alleged to
2 have been violated.

3 (e) If the sheriff does not specifically point out in the
4 written statement the act or acts of the employee that allegedly
5 violated the civil service rules, the commission shall promptly
6 reinstate the employee.

7 (f) If offered by the sheriff, the employee may agree in
8 writing to voluntarily accept, with no right of appeal, a
9 suspension of 16 to 90 calendar days for the violation of a civil
10 service rule. The employee must accept the offer within five
11 working days after the date the offer is made. If the employee
12 refuses the offer and wants to appeal to the commission, the
13 employee must file a written appeal with the commission in
14 accordance with Section 158.037.

15 (g) In the original written statement and charges and in any
16 hearing conducted under this subchapter, the sheriff may not
17 complain of an act that occurred earlier than the 180th day
18 preceding the date the sheriff suspends the employee. If the act is
19 allegedly related to criminal activity, including the violation of
20 a federal, state, or local law for which the employee is subject to
21 a criminal penalty:

22 (1) the sheriff may not complain of an act that is
23 discovered earlier than the 180th day preceding the date the
24 sheriff suspends the employee; and

25 (2) the sheriff must allege that the act complained of
26 is related to criminal activity.

27 Sec. 158.0353. DEMOTIONS. (a) The sheriff may recommend to

1 the commission in writing that the commission demote a nonexempt
2 employee involuntarily.

3 (b) The sheriff must include in the recommendation for
4 demotion the reasons for the recommended demotion and a request
5 that the commission order the demotion. The sheriff must
6 immediately furnish a copy of the recommendation in person to the
7 affected employee.

8 (c) The commission may refuse to grant the request for
9 demotion. If the commission believes that probable cause exists for
10 ordering the demotion, the commission shall give the employee
11 written notice to appear before the commission for a public hearing
12 at a time and place specified in the notice. The commission shall
13 give the notice before the 10th day before the date the hearing will
14 be held.

15 (d) The employee is entitled to a full and complete public
16 hearing, and the commission may not demote an employee without that
17 public hearing.

18 (e) A voluntary demotion in which the employee has accepted
19 the terms of the demotion in writing is not subject to this section.

20 SECTION 3. Section 158.037, Local Government Code, is
21 amended to read as follows:

22 Sec. 158.037. APPEALS. (a) Except as otherwise provided by
23 this subchapter, an employee may appeal to the commission an action
24 for which an appeal or review is provided by this subchapter by
25 filing an appeal with the commission within 10 days after the date
26 the action occurred.

27 (b) The appeal must include the basis for the appeal and a

1 request for a commission hearing. The appeal must also contain:

2 (1) a statement denying the truth of the charge as
3 made;

4 (2) a statement taking exception to the legal
5 sufficiency of the charge;

6 (3) a statement alleging that the recommended action
7 does not fit the offense or alleged offense; or

8 (4) a combination of the statements described by this
9 subsection.

10 (c) In each hearing, appeal, or review of any kind in which
11 the commission performs an adjudicatory function, the affected
12 employee is entitled to be represented by counsel or a person the
13 employee chooses. Each commission proceeding must be held in
14 public.

15 (d) The commission may issue subpoenas and subpoenas duces
16 tecum for the attendance of witnesses and for the production of
17 documentary material.

18 (e) The affected employee may request the commission to
19 subpoena any books, records, documents, papers, accounts, or
20 witnesses that the employee considers pertinent to the case. The
21 employee must make the request before the 10th day before the date
22 the commission hearing will be held. If the commission does not
23 subpoena the material, the commission shall, before the third day
24 before the date the hearing will be held, make a written report to
25 the employee stating the reason it will not subpoena the requested
26 material. The report must be read into the public record of the
27 commission hearing.

1 (f) Witnesses may be placed under the rule at the commission
2 hearing.

3 (g) The commission shall conduct the hearing fairly and
4 impartially as prescribed by this subchapter and shall render a
5 just and fair decision. The commission may consider only the
6 evidence submitted at the hearing.

7 (h) The commission shall maintain a public record of each
8 proceeding with copies available at cost.

9 (i) If a suspended employee appeals a suspension to the
10 commission, the commission shall hold a hearing and render a
11 decision in writing within 30 days after the date the commission
12 receives notice of appeal. The suspended employee and the
13 commission may agree to postpone the hearing for a definite period.

14 (j) In a hearing conducted under this section, the sheriff
15 is restricted to the sheriff's original written statement and
16 charges, which may not be amended.

17 (k) The commission may deliberate the decision in closed
18 session but may not consider evidence that was not presented at the
19 hearing. The commission shall vote in open session.

20 (l) The commission may suspend or dismiss an employee for
21 violation of civil service rules and only after a finding by the
22 commission of the truth of specific charges against the employee.

23 (m) In its decision, the commission shall state whether the
24 suspended employee is:

25 (1) permanently dismissed from the department;

26 (2) temporarily suspended from the department; or

27 (3) restored to the employee's former position or

1 status in the department's classified service.

2 (n) If the commission finds that the period of disciplinary
3 suspension should be reduced, the commission may order a reduction
4 in the period of suspension. If the suspended employee is restored
5 to the position or class of service from which the employee was
6 suspended, the employee is entitled to:

7 (1) full compensation for the actual time lost as a
8 result of the suspension at the rate of pay provided for the
9 position or class of service from which the employee was suspended;
10 and

11 (2) restoration of or credit for any other benefits
12 lost as a result of the suspension, including sick leave, vacation
13 leave, and service credit in a retirement system. Standard payroll
14 deductions, if any, for retirement and other benefits restored
15 shall be made from the compensation paid, and the county shall make
16 its standard corresponding contributions, if any, to the retirement
17 system or other applicable benefit systems.

18 (o) An employee who, on a final decision by the commission,
19 is demoted, suspended, or removed from a position may appeal the
20 decision by filing a petition in a district court in the county
21 within 30 days after the date of the decision.

22 (p) [~~(b)~~] An appeal under Subsection (o) [~~this section~~] is
23 under the substantial evidence rule, and the judgment of the
24 district court is appealable as in other civil cases.

25 (q) Each appeal to a district court of an indefinite
26 suspension shall be advanced on the district court docket and given
27 a preference setting over all other cases.

1 (r) [~~(e)~~] If the district court renders judgment for the
2 petitioner, the court may order reinstatement of the employee,
3 payment of back pay, or other appropriate relief.

4 SECTION 4. Subchapter B, Chapter 158, Local Government
5 Code, is amended by adding Sections 158.0372 through 158.0374 and
6 Sections 158.041 through 158.062 to read as follows:

7 Sec. 158.0372. REINSTATEMENT. (a) If the commission, a
8 hearing examiner, or a district court orders that an employee
9 suspended without pay be reinstated, the sheriff shall comply with
10 the order and the county shall, before the end of the second full
11 pay period after the date the employee is reinstated, repay to the
12 employee all wages lost as a result of the suspension.

13 (b) If the county does not fully repay all lost wages to the
14 employee as provided by this section, the county shall pay the
15 employee an amount equal to the lost wages plus accrued interest.

16 (c) Interest under Subsection (b) accrues beginning on the
17 date of the employee's reinstatement at a rate equal to three
18 percent plus the rate for court judgments under Chapter 304,
19 Finance Code, that is in effect on the date of the employee's
20 reinstatement.

21 Sec. 158.0373. HEARING EXAMINERS. (a) In addition to the
22 other notice requirements prescribed by this subchapter, the
23 written notice for a promotional bypass, demotion, or notice of
24 disciplinary action, as applicable, issued to an employee must
25 state that in an appeal of an indefinite suspension, a suspension, a
26 promotional bypass, or a recommended demotion, the appealing
27 employee may elect to appeal to an independent third-party hearing

1 examiner instead of to the commission. The letter must also state
2 that if the employee elects to appeal to a hearing examiner, the
3 employee waives all rights to appeal to a district court except as
4 provided by Subsection (j).

5 (b) To exercise the choice of appealing to a hearing
6 examiner, the appealing employee must submit to the commission a
7 written request as part of the original notice of appeal required
8 under this subchapter stating the employee's decision to appeal to
9 an independent third-party hearing examiner.

10 (c) The hearing examiner's decision is final and binding on
11 all parties. If the employee decides to appeal to an independent
12 third-party hearing examiner, the employee waives all rights to
13 appeal to a district court except as provided by Subsection (j).

14 (d) If the employee chooses to appeal to a hearing examiner,
15 the employee and the sheriff, or their designees, shall first
16 attempt to agree on the selection of an impartial hearing examiner.
17 If the parties do not agree on the selection of a hearing examiner
18 on or within 10 days after the date the appeal is filed, the
19 commission shall immediately request a list of seven qualified
20 neutral arbitrators from the American Arbitration Association or
21 the Federal Mediation and Conciliation Service, or their successors
22 in function. The employee and the sheriff, or their designees, may
23 agree on one of the seven neutral arbitrators on the list. If they
24 do not agree within five working days after the date they received
25 the list, each party or the party's designee shall alternate
26 striking a name from the list and the name remaining is the hearing
27 examiner. The parties or their designees shall agree on a date for

1 the hearing.

2 (e) The appeal hearing shall begin as soon as the hearing
3 examiner can be scheduled. If the hearing examiner cannot begin the
4 hearing within 45 calendar days after the date of selection, the
5 employee may, within two days after learning of that fact, call for
6 the selection of a new hearing examiner using the procedure
7 prescribed by Subsection (d).

8 (f) In each hearing conducted under this section, the
9 hearing examiner has the same duties and powers as the commission,
10 including the right to issue subpoenas.

11 (g) In a hearing conducted under this section, the parties
12 may agree to an expedited hearing procedure. Unless otherwise
13 agreed by the parties, in an expedited procedure the hearing
14 examiner shall render a decision on the appeal within 10 days after
15 the date the hearing ended.

16 (h) In an appeal that does not involve an expedited hearing
17 procedure, the hearing examiner shall make a reasonable effort to
18 render a decision on the appeal within 30 days after the date the
19 hearing ends or the briefs are filed. The hearing examiner's
20 inability to meet the time requirements imposed by this section
21 does not affect the hearing examiner's jurisdiction, the validity
22 of the disciplinary action, or the hearing examiner's final
23 decision.

24 (i) The hearing examiner's fees and expenses are shared
25 equally by the appealing employee and by the department. The costs
26 of a witness are paid by the party who calls the witness.

27 (j) A district court may hear an appeal of a hearing

1 examiner's award only on the grounds that the hearing examiner was
2 without jurisdiction or exceeded the hearing examiner's
3 jurisdiction or that the order was procured by fraud, collusion, or
4 other unlawful means. An appeal must be brought in the district
5 court having jurisdiction in the county in which the department is
6 located.

7 Sec. 158.0374. UNCOMPENSATED DUTY. (a) In this section,
8 "uncompensated duty" means days of work without pay that are in
9 addition to regular or normal workdays.

10 (b) The sheriff may assign an employee to uncompensated
11 duty. The sheriff may not impose uncompensated duty unless the
12 employee agrees to accept the duty. The sheriff shall give the
13 employee a written statement that specifies the date or dates on
14 which the employee will perform uncompensated duty if the employee
15 agrees to accept uncompensated duty.

16 (c) Uncompensated duty may be in place of or in combination
17 with a period of disciplinary suspension without pay. If
18 uncompensated duty is combined with a disciplinary suspension, the
19 total number of uncompensated days may not exceed 15.

20 (d) An employee may not earn or accrue any wage, salary, or
21 benefit arising from length of service while the employee is
22 suspended without pay or performing uncompensated duty. The days
23 on which an employee performs assigned uncompensated duty may not
24 be taken into consideration in determining eligibility for a
25 promotional examination.

26 (e) Except as provided by this section, an employee who
27 performs assigned uncompensated duty retains all rights and

1 privileges of the employee's position in the department and of the
2 employee's employment by the county.

3 Sec. 158.041. PROMOTIONAL EXAMINATION NOTICE. (a) Not
4 later than the 90th day before the date a promotional examination is
5 held, the commission shall post a notice that lists the sources from
6 which the examination questions will be taken.

7 (b) Not later than the 30th day before the date a
8 promotional examination is held, the commission shall post a notice
9 of the examination in plain view on a bulletin board located in the
10 main lobby of the sheriff's department and in the commission's
11 office. The notice must show the position to be filled or for which
12 the examination is to be held, and the date, time, and place of the
13 examination. The commission shall also furnish sufficient copies
14 of the notice for posting in the stations or subdepartments in which
15 the position will be filled.

16 (c) The notice required by Subsection (b) may also include
17 the name of each source used for the examination, the number of
18 questions taken from each source, and the chapter used in each
19 source.

20 Sec. 158.042. ELIGIBILITY FOR PROMOTIONAL EXAMINATION. (a)
21 Each promotional examination is open to each employee who for at
22 least two years immediately before the examination date has
23 continuously held a position in the classification that is
24 immediately below, in salary, the classification for which the
25 examination is to be held.

26 (b) If the department has adopted a classification plan that
27 classifies positions on the basis of similarity in duties and

1 responsibilities, each promotional examination is open to each
2 employee who has continuously held, for at least two years
3 immediately before the examination date, a position at the next
4 lower pay grade, if it exists, in the classification for which the
5 examination is to be held.

6 (c) If there are not sufficient employees in the next lower
7 position with two years' service in that position to provide an
8 adequate number of employees to take the examination, the
9 commission shall open the examination to employees in that position
10 with less than two years' service. If there is still an
11 insufficient number, the commission may open the examination to
12 employees in the second lower position, in salary, to the position
13 for which the examination is to be held.

14 Sec. 158.043. PROMOTIONAL EXAMINATION PROCEDURE; CRIMINAL
15 PENALTY. (a) The commission shall adopt rules governing
16 promotions and shall hold promotional examinations to provide
17 eligibility lists for each nonexempt classification in the
18 department. The examinations shall be held substantially as
19 prescribed by this section.

20 (b) Each eligible promotional candidate shall be given an
21 identical examination in the presence of the other eligible
22 promotional candidates, except that an eligible promotional
23 candidate who is serving on active military duty outside of this
24 state or in a location that is not within reasonable geographic
25 proximity to the location where the examination is being
26 administered is entitled to take the examination outside of the
27 presence of and at a different time than the other candidates and

1 may be allowed to take an examination that is not identical to the
2 examination administered to the other candidates. The commission
3 may adopt rules providing for the efficient administration of
4 promotional examinations to eligible promotional candidates who
5 are members of the armed forces serving on active military duty. In
6 adopting the rules, the commission shall ensure that the
7 administration of the examination will not result in unnecessary
8 interference with any ongoing military effort. The rules must
9 require that:

10 (1) at the discretion of the administering entity, an
11 examination that is not identical to the examination administered
12 to other eligible promotional candidates may be administered to an
13 eligible promotional candidate who is serving on active military
14 duty; and

15 (2) if a candidate serving on active military duty
16 takes a promotional examination outside the presence of other
17 candidates and passes the examination, the candidate's name shall
18 be included in the eligibility list of names of promotional
19 candidates who took and passed the examination nearest in time to
20 the time at which the candidate on active military duty took the
21 examination.

22 (c) The examination must be entirely in writing and may not
23 in any part consist of an oral interview.

24 (d) The examination questions must test the knowledge of the
25 eligible promotional candidates about information and facts and
26 must be based on:

27 (1) the duties of the position for which the

1 examination is held;

2 (2) material that is of reasonably current publication
3 and that has been made reasonably available to each employee
4 involved in the examination; and

5 (3) any study course given by the departmental schools
6 of instruction.

7 (e) The examination questions must be taken from the sources
8 listed in the posted notice under Section 158.041(a). Employees
9 may suggest source materials for the examinations.

10 (f) The examination questions must be prepared and composed
11 so that the grading of the examination can be promptly completed
12 immediately after the examination is over.

13 (g) The commission is responsible for the preparation and
14 security of each promotional examination. The fairness of the
15 competitive promotional examination is the responsibility of the
16 commission and each county employee involved in the preparation or
17 administration of the examination.

18 (h) A person commits an offense if the person knowingly or
19 intentionally:

20 (1) reveals a part of a promotional examination to an
21 unauthorized person for unfair personal gain or advantage; or

22 (2) receives from any person a part of a promotional
23 examination for unfair personal gain or advantage.

24 (i) An offense under Subsection (h) is a misdemeanor
25 punishable by a fine of not less than \$1,000, confinement in the
26 county jail for not more than one year, or both fine and
27 confinement.

1 Sec. 158.044. PROMOTIONAL EXAMINATION GRADES. (a) The
2 grading of each promotional examination shall begin when one
3 eligible promotional candidate completes the examination. As the
4 eligible promotional candidates finish the examination, the
5 examinations shall be graded at the examination location and in the
6 presence of any candidate who wants to remain during the grading.

7 (b) Each employee is entitled to receive one point for each
8 year of seniority as a classified employee in the department, with a
9 maximum of 10 points.

10 (c) The grade that must be placed on the eligibility list
11 for each employee shall be computed by adding the applicant's
12 points for seniority to the applicant's grade on the written
13 examination, but only if the applicant scores a passing grade on the
14 written examination. Each applicant's grade on the written
15 examination is based on a maximum grade of 100 points and is
16 determined entirely by the correctness of the applicant's answers
17 to the questions. All applicants who receive a grade on the written
18 examination of at least 70 points shall be determined to have passed
19 the examination. If a tie score occurs, the commission shall
20 determine a method to break the tie.

21 (d) Within 24 hours after a promotional examination is
22 given, the commission shall post the individual raw test scores on a
23 bulletin board located in the main lobby of the sheriff's
24 department.

25 Sec. 158.045. REVIEW AND APPEAL OF PROMOTIONAL EXAMINATION.

26 (a) On request, each eligible promotional candidate is entitled to
27 examine the person's promotional examination and answers, the

1 examination grading, and the source material for the examination.
2 If dissatisfied, the candidate may appeal, within seven days, to
3 the commission for review in accordance with this subchapter.

4 (b) The eligible promotional candidate may not remove the
5 examination or copy a question used in the examination.

6 Sec. 158.046. PROCEDURE FOR MAKING PROMOTIONAL
7 APPOINTMENTS. (a) When a vacancy occurs in a nonentry, nonexempt
8 position, the vacancy shall be filled as prescribed by this
9 section. A vacancy in a position described by this subsection
10 occurs on the date the position is vacated by:

- 11 (1) resignation;
- 12 (2) retirement;
- 13 (3) death;
- 14 (4) promotion; or
- 15 (5) an indefinite suspension that becomes final.

16 (b) If an eligibility list for the position to be filled
17 exists on the date the vacancy occurs, the commission shall certify
18 to the sheriff the names of the three persons having the highest
19 grades on that eligibility list. The commission shall certify the
20 names within 10 days after the date the commission is notified of
21 the vacancy. If fewer than three names remain on the eligibility
22 list or if only one or two eligible promotional candidates passed
23 the promotional examination, each name on the list must be
24 submitted to the sheriff.

25 (c) The commission shall submit names from an existing
26 eligibility list to the sheriff until the vacancy is filled or the
27 list is exhausted.

1 (d) If an eligibility list does not exist on the date a
2 vacancy occurs or a new position is created, the commission shall
3 hold an examination to create a new eligibility list within 90 days
4 after the date the vacancy occurs or a new position is created.

5 (e) If an eligibility list exists on the date a vacancy
6 occurs, the sheriff shall fill the vacancy by permanent appointment
7 from the eligibility list furnished by the commission within 60
8 days after the date the vacancy occurs. If an eligibility list does
9 not exist, the sheriff shall fill the vacancy by permanent
10 appointment from an eligibility list that the commission shall
11 provide within 90 days after the date the vacancy occurs.

12 (f) Unless the sheriff has a valid reason for not appointing
13 the candidate, the sheriff shall appoint the eligible promotional
14 candidate having the highest grade on the eligibility list. If the
15 sheriff has a valid reason for not appointing the eligible
16 promotional candidate having the highest grade, the sheriff shall
17 personally discuss the reason with the candidate being bypassed
18 before appointing another candidate. The sheriff shall also file
19 the reason in writing with the commission and shall provide the
20 candidate with a copy of the written notice. The bypassed
21 promotional candidate may appeal the decision in accordance with
22 Section [158.037](#).

23 (g) If a candidate is bypassed, the candidate's name is
24 returned to its place on the eligibility list and shall be
25 resubmitted to the sheriff if another vacancy occurs. If the
26 sheriff refuses three times to appoint a candidate, files the
27 reasons for the refusals in writing with the commission, and the

1 commission does not set aside the refusals, the candidate's name
2 shall be removed from the eligibility list.

3 (h) Each promotional eligibility list remains in existence
4 for one year after the date on which the written examination is
5 given, unless exhausted. At the expiration of the one-year period,
6 the eligibility list expires and a new examination may be held.

7 Sec. 158.047. TEMPORARY DUTIES IN HIGHER CLASSIFICATION.

8 (a) When a vacancy occurs, the sheriff may designate an employee
9 from the next lower classification to temporarily fill a position
10 in a higher classification. The designated employee is entitled to
11 the base salary of the higher position plus the employee's own
12 longevity or seniority pay, educational incentive pay, if any, and
13 certification pay, if any, during the time the employee performs
14 the duties.

15 (b) The temporary performance of the duties of a higher
16 position by an employee who has not been promoted as prescribed by
17 this chapter may not be construed as a promotion.

18 Sec. 158.048. LEAVES OF ABSENCE; RESTRICTION PROHIBITED.

19 (a) If a sufficient number of employees are available to carry out
20 the normal functions of the department, an employee may not be
21 refused a reasonable leave of absence without pay to attend a
22 school, convention, or meeting if the purpose of the school,
23 convention, or meeting is to secure a more efficient department and
24 better working conditions for department personnel.

25 (b) A rule that affects an employee's constitutional right
26 to appear before or to petition the legislature may not be adopted.

27 Sec. 158.049. MILITARY LEAVE OF ABSENCE. (a) On written

1 application of an employee, the commission shall grant the employee
2 a military leave of absence without pay, notwithstanding Section
3 158.050, to enable the employee to enter a branch of the United
4 States military service. The leave of absence may not exceed the
5 period of compulsory military service or the basic minimum
6 enlistment period for the branch of service the employee enters.

7 (b) The commission shall grant to an employee a leave of
8 absence for initial training or annual duty in the military
9 reserves or the national guard.

10 (c) While an employee serves in the military, the commission
11 shall fill the employee's position in the department in accordance
12 with this subchapter. The employee who fills the position is
13 subject to replacement by the employee who received the military
14 leave at the time the employee returns to active duty in the
15 department.

16 (d) On termination of active military service, an employee
17 who received a military leave of absence under this section is
18 entitled to be reinstated to the position that the employee held in
19 the department at the time the leave of absence was granted if the
20 employee:

21 (1) receives an honorable discharge;

22 (2) remains physically and mentally fit to discharge
23 the duties of that position; and

24 (3) makes an application for reinstatement within 90
25 days after the date the employee is discharged from military
26 service.

27 (e) On reinstatement, the employee shall receive full

1 seniority credit for the time spent in the military service.

2 (f) If the reinstatement of an employee causes that
3 employee's replacement to be returned to a lower position in grade
4 or compensation, the replaced employee has a preferential right to
5 a subsequent appointment or promotion to the same or a similar
6 position from which the employee was demoted. This preferential
7 right has priority over an eligibility list and is subject to the
8 replaced employee remaining physically and mentally fit to
9 discharge the duties of that position.

10 (g) If an employee is called to active military duty for any
11 period, the county must continue to maintain any health, dental, or
12 life insurance coverage and any health or dental benefits coverage
13 that the employee received from the county on the date the employee
14 was called to active military duty until the county receives
15 written instructions from the employee to change or discontinue the
16 coverage.

17 (h) In addition to other procedures prescribed by this
18 section, an employee may, without restriction as to the amount of
19 time, voluntarily substitute for another employee who has been
20 called to active federal military duty for a period expected to last
21 12 months or longer. An employee who voluntarily substitutes under
22 this subsection must be qualified to perform the duties of the
23 absent employee.

24 Sec. 158.050. MILITARY LEAVE TIME ACCOUNTS. (a) A county
25 shall maintain a military leave time account for the sheriff's
26 department.

27 (b) A military leave time account shall benefit an employee

1 who:

2 (1) is a member of the Texas National Guard or the
3 armed forces reserves of the United States;

4 (2) was called to active federal military duty while
5 serving as an employee for the sheriff's department;

6 (3) has served on active duty for a period of at least
7 12 continuous months; and

8 (4) has exhausted the balance of the employee's
9 vacation, holiday, and compensatory leave time accumulations.

10 (c) An employee may donate any amount of accumulated
11 vacation, holiday, sick, or compensatory leave time to the military
12 leave time account in the department to help provide salary
13 continuation for employees who qualify as eligible beneficiaries of
14 the account under Subsection (b). An employee who wishes to donate
15 time to an account under this section must authorize the donation in
16 writing on a form provided by the department and approved by the
17 county.

18 (d) A county shall equally distribute the leave time donated
19 to a military leave time account among all employees who are
20 eligible beneficiaries of the account. The county shall credit and
21 debit the applicable military leave time account on an hourly basis
22 regardless of the cash value of the time donated or used.

23 Sec. 158.051. LINE OF DUTY ILLNESS OR INJURY LEAVE OF
24 ABSENCE. (a) A county shall provide to an employee a leave of
25 absence for an illness or injury related to the employee's
26 activities performed in the line of duty. The leave is with full
27 pay for a period commensurate with the nature of the line of duty

1 illness or injury. If necessary, the leave shall continue for at
2 least one year.

3 (b) At the end of the one-year period, the county's
4 governing body may extend the line of duty illness or injury leave
5 at full or reduced pay. If the employee's leave is not extended or
6 the employee's salary is reduced below 60 percent of the employee's
7 regular monthly salary, and the employee is a member of a pension
8 fund, the employee may retire on pension until the employee is able
9 to return to duty.

10 (c) If pension benefits are not available to an employee who
11 is temporarily disabled by a line of duty injury or illness and if
12 the year at full pay and any extensions granted by the governing
13 body have expired, the employee may use accumulated sick leave,
14 vacation time, and other accumulated time before the employee is
15 placed on temporary leave.

16 (d) If an employee is temporarily disabled by an injury or
17 illness that is not related to activities performed in the
18 employee's line of duty, the employee may use all sick leave,
19 vacation time, and other accumulated time before the employee is
20 placed on temporary leave.

21 (e) After recovery from a temporary disability, an employee
22 shall be reinstated at the same rank and with the same seniority the
23 employee had before going on temporary leave.

24 (f) While an employee who is temporarily disabled is on
25 leave, another employee may voluntarily do the work of the employee
26 who is temporarily disabled or donate leave time to maintain the
27 salary for the employee who is temporarily disabled until the

1 temporarily disabled employee returns to duty.

2 Sec. 158.052. REAPPOINTMENT AFTER RECOVERY FROM
3 DISABILITY. With the commission's approval and if otherwise
4 qualified, an employee who has been certified by a physician
5 selected by a pension fund as having recovered from a disability for
6 which the employee has been receiving a monthly disability pension
7 is eligible for reappointment to the classified position that the
8 employee held on the date the employee qualified for the monthly
9 disability pension.

10 Sec. 158.053. PERSONNEL FILE. (a) The commission or the
11 commission's designee shall maintain a personnel file on each
12 employee. The personnel file must contain any letter, memorandum,
13 or document relating to:

14 (1) a commendation, congratulation, or honor bestowed
15 on the employee by a member of the public or by the department for an
16 action, duty, or activity that relates to the employee's official
17 duties;

18 (2) any misconduct by the employee if the letter,
19 memorandum, or document is from the department and if the
20 misconduct resulted in disciplinary action by the employing
21 department in accordance with this subchapter; and

22 (3) the periodic evaluation of the employee by a
23 supervisor.

24 (b) A letter, memorandum, or document relating to alleged
25 misconduct by the employee may not be placed in the employee's
26 personnel file if the department determines that there is
27 insufficient evidence to sustain the charge of misconduct.

1 (c) A letter, memorandum, or document relating to
2 disciplinary action taken against the employee or to alleged
3 misconduct by the employee that is placed in the employee's
4 personnel file as provided by Subsection (a)(2) shall be removed
5 from the employee's file if the commission finds that:

6 (1) the disciplinary action was taken without just
7 cause; or

8 (2) the charge of misconduct was not supported by
9 sufficient evidence.

10 (d) If a negative letter, memorandum, document, or other
11 notation of negative impact is included in an employee's personnel
12 file, the commission or the commission's designee shall, within 30
13 days after the date of the inclusion, notify the affected employee.
14 The employee may, on or before the 15th day after the date of
15 receipt of the notification, file a written response to the
16 negative letter, memorandum, document, or other notation.

17 (e) The employee is entitled, on request, to a copy of any
18 letter, memorandum, or document placed in the employee's personnel
19 file. The county may charge the employee a reasonable fee not to
20 exceed the actual cost for any copies provided under this
21 subsection.

22 (f) The commission or the commission's designee may not
23 release any information contained in an employee's personnel file
24 without first obtaining the employee's written permission, unless
25 the release of the information is required by law.

26 (g) The department may maintain a personnel file on an
27 employee for the department's use, but the department may not

1 release any information contained in the department file to any
2 agency or person requesting information relating to the employee.
3 The department shall refer to the commission or the commission's
4 designee a person or agency that requests information that is
5 maintained in the employee's personnel file.

6 Sec. 158.054. INVESTIGATION OF EMPLOYEES. (a) In this
7 section:

8 (1) "Complainant" means a person claiming to be the
9 victim of misconduct by an employee.

10 (2) "Investigation" means an administrative
11 investigation, conducted by the county, of alleged misconduct by an
12 employee that could result in punitive action against that
13 employee.

14 (3) "Investigator" means an agent or employee of the
15 county who is assigned to conduct an investigation.

16 (4) "Normally assigned working hours" includes those
17 hours during which an employee is actually at work or at the
18 employee's assigned place of work, but does not include any time
19 when the employee is off duty on authorized leave, including sick
20 leave.

21 (5) "Punitive action" means a disciplinary
22 suspension, indefinite suspension, demotion in rank, reprimand, or
23 any combination of those actions.

24 (b) An investigator may interrogate an employee who is the
25 subject of an investigation only during the employee's normally
26 assigned working hours unless:

27 (1) the seriousness of the investigation, as

1 determined by the sheriff or the sheriff's designee, requires
2 interrogation at another time; and

3 (2) the employee is compensated for the interrogation
4 time on an overtime basis.

5 (c) The sheriff may not consider work time missed from
6 regular duties by an employee due to participation in the conduct of
7 an investigation in determining whether to impose a punitive action
8 or in determining the severity of a punitive action.

9 (d) An investigator may not interrogate an employee who is
10 the subject of an investigation or conduct any part of the
11 investigation at that employee's home without that employee's
12 permission.

13 (e) A person may not be assigned to conduct an investigation
14 if the person is the complainant, the ultimate decision maker
15 regarding disciplinary action, or a person who has any personal
16 involvement regarding the alleged misconduct. An employee who is
17 the subject of an investigation has the right to inquire and, on
18 inquiry, to be informed of the identities of each investigator
19 participating in an interrogation of the employee.

20 (f) Before an investigator may interrogate an employee who
21 is the subject of an investigation, the investigator must inform
22 the employee in writing of the nature of the investigation and the
23 name of each person who complained about the employee concerning
24 the matters under investigation. An investigator may not conduct
25 an interrogation of an employee based on a complaint by a
26 complainant who is not a peace officer unless the complainant
27 verifies the complaint in writing before a public officer who is

1 authorized by law to take statements under oath. In an
2 investigation authorized under this subsection, an investigator
3 may interrogate an employee about events or conduct reported by a
4 witness who is not a complainant without disclosing the name of the
5 witness. Not later than the 48th hour before the hour on which an
6 investigator begins to interrogate an employee regarding an
7 allegation based on a complaint, affidavit, or statement, the
8 investigator shall give the employee a copy of the affidavit,
9 complaint, or statement. An interrogation may be based on a
10 complaint from an anonymous complainant if the departmental
11 employee receiving the anonymous complaint certifies in writing,
12 under oath, that the complaint was anonymous. This subsection does
13 not apply to an on-the-scene investigation that occurs immediately
14 after an incident being investigated if the limitations of this
15 subsection would unreasonably hinder the essential purpose of the
16 investigation or interrogation. If the limitation would hinder the
17 investigation or interrogation, the employee under investigation
18 must be furnished, as soon as practicable, a written statement of
19 the nature of the investigation, the name of each complaining
20 party, and the complaint, affidavit, or statement.

21 (g) An interrogation session of an employee who is the
22 subject of an investigation may not be unreasonably long. In
23 determining reasonableness, the gravity and complexity of the
24 investigation must be considered. The investigators shall allow
25 reasonable interruptions to permit the employee to attend to
26 personal physical necessities.

27 (h) An investigator may not threaten an employee who is the

1 subject of an investigation with punitive action during an
2 interrogation. However, an investigator may inform an employee
3 that failure to truthfully answer reasonable questions directly
4 related to the investigation or to fully cooperate in the conduct of
5 the investigation may result in punitive action.

6 (i) If prior notification of intent to record an
7 interrogation is given to the other party, either the investigator
8 or the employee who is the subject of an interrogation may record
9 the interrogation.

10 (j) If an investigation does not result in punitive action
11 against an employee but does result in a reprimand recorded in
12 writing or an adverse finding or determination regarding that
13 employee, the reprimand, finding, or determination may not be
14 placed in that employee's personnel file unless the employee is
15 first given an opportunity to read and sign the document. If the
16 employee refuses to sign the reprimand, finding, or determination,
17 it may be placed in the personnel file with a notation that the
18 employee refused to sign it. An employee may respond in writing to
19 a reprimand, finding, or determination that is placed in the
20 employee's personnel file under this subsection by submitting a
21 written response to the commission within 10 days after the date the
22 employee is asked to sign the document. The response must be placed
23 in the personnel file. An employee who receives a punitive action
24 and who elects not to appeal the action may file a written response
25 as prescribed by this subsection within 10 days after the date the
26 employee is given written notice of the punitive action from the
27 sheriff.

1 (k) If the sheriff or any investigator violates any of the
2 provisions of this section while conducting an investigation, the
3 commission shall reverse any punitive action taken pursuant to the
4 investigation, including a reprimand, and any information obtained
5 during the investigation shall be specifically excluded from
6 introduction into evidence in any proceeding against the employee.

7 Sec. 158.055. GRIEVANCE PROCEDURE. (a) An employee may
8 file a grievance as provided by this subchapter. The employee may
9 file a grievance that relates to the employee's employment,
10 including matters relating to a written or oral reprimand,
11 transfers, job performance reviews, and job assignments. The
12 employee may not file a grievance relating to:

13 (1) a disciplinary suspension, indefinite suspension,
14 promotional pass over, or demotion or other action or decision for
15 which a hearing, review, or appeal is otherwise provided by this
16 subchapter; or

17 (2) an allegation of discrimination based, in whole or
18 in part, on race, color, religion, sex, or national origin.

19 (b) The commission shall monitor and assist the operation of
20 the grievance procedure. The commission's duties include:

21 (1) aiding the department and departmental grievance
22 counselors;

23 (2) notifying the parties of meetings;

24 (3) docketing cases before the grievance examiner; and

25 (4) ensuring that the grievance procedure operates
26 timely and effectively.

27 (c) The sheriff shall appoint from among the members of the

1 department a grievance counselor whose duties include:

2 (1) providing appropriate grievance forms to an
3 employee;

4 (2) accepting, on behalf of the sheriff, a step I or II
5 grievance;

6 (3) assisting the employee in handling the grievance;

7 (4) forwarding a copy of a step I or II grievance form
8 to the commission and notifying the sheriff;

9 (5) arranging a meeting between the employee and that
10 employee's immediate supervisor as prescribed by Section
11 158.056(b);

12 (6) arranging a meeting described by Section
13 158.057(b); and

14 (7) performing other duties that the sheriff may
15 assign.

16 (d) The grievance procedure consists of four steps. In any
17 step of the grievance process in which the aggrieved employee's
18 immediate supervisor is included, the sheriff or the departmental
19 grievance counselor may add an appropriate supervisor who is not
20 the employee's immediate supervisor or may designate that
21 supervisor to replace the employee's immediate supervisor, if the
22 sheriff or grievance counselor determines that the other supervisor
23 has the authority to resolve the employee's grievance.

24 Sec. 158.056. STEP I GRIEVANCE PROCEDURE. (a) To begin a
25 grievance action, an employee must file a completed written step I
26 grievance form with the departmental grievance counselor within 30
27 days after the date the action or inaction for which the employee

1 feels aggrieved occurred. A step I grievance form may be obtained
2 from the departmental grievance counselor. If the form is not
3 timely filed, the grievance is waived.

4 (b) If the step I grievance form is timely filed under
5 Subsection (a), the departmental grievance counselor shall arrange
6 a meeting of the employee, that employee's immediate supervisor or
7 other appropriate supervisor or both, and the person or persons
8 against whom the grievance is lodged. The departmental grievance
9 counselor shall schedule the step I meeting within 30 calendar days
10 after the date the form is filed. If the grievance is lodged against
11 the sheriff, the sheriff may send a representative.

12 (c) The employee's immediate supervisor or other
13 appropriate supervisor, or both, shall fully, candidly, and openly
14 discuss the grievance with the employee in a sincere attempt to
15 resolve it.

16 (d) Regardless of the outcome of the meeting, the employee's
17 immediate supervisor or other appropriate supervisor, or both,
18 shall provide a written response to the employee, with a copy to the
19 grievance counselor, within 15 calendar days after the date the
20 meeting occurs. The response must include the supervisor's
21 evaluation and proposed solution. The response shall either be
22 personally delivered to the employee or be mailed by certified
23 mail, return receipt requested, to the last home address provided
24 by that employee.

25 (e) If the proposed solution is not acceptable, the employee
26 may file a step II grievance form with the departmental grievance
27 counselor in accordance with Section 158.057. If the aggrieved

1 employee fails to timely file a step II grievance form, the solution
2 is considered accepted.

3 Sec. 158.057. STEP II GRIEVANCE PROCEDURE. (a) To continue
4 the grievance procedure, the employee must complete a step II
5 grievance form and file it with the sheriff or the departmental
6 grievance counselor within 15 calendar days after the date the
7 employee receives the supervisor's response under Section 158.056.

8 (b) If the step II grievance form is timely filed under
9 Subsection (a), the departmental grievance counselor shall arrange
10 a meeting of the employee, that employee's immediate supervisor or
11 other appropriate supervisor or both, and the sheriff or the
12 sheriff's representative who must have a rank of at least captain or
13 the equivalent. The meeting shall be held within 15 calendar days
14 after the date the form is filed.

15 (c) Regardless of the outcome of the meeting, the sheriff or
16 the sheriff's representative shall provide a written response to
17 the employee within 15 calendar days after the date the meeting
18 occurs. The response shall either be personally delivered to the
19 employee or be mailed by certified mail, return receipt requested,
20 to the last home address provided by that employee.

21 (d) If the proposed solution is not acceptable, the employee
22 may either submit a written request stating the employee's decision
23 to appeal to an independent third-party hearing examiner pursuant
24 to the provisions of Section 158.0373 or file a step III grievance
25 form with the director in accordance with Section 158.058. If the
26 employee fails to timely file a step III grievance form or a written
27 request to appeal to a hearing examiner, the solution is considered

1 accepted. Notwithstanding Section 158.0373(i), if the employee
2 prevails and the hearing examiner upholds the grievance in its
3 entirety, the department shall bear the cost of the appeal to the
4 hearing examiner. If the employee fails to prevail and the hearing
5 examiner denies the grievance in its entirety, the employee shall
6 bear the cost of the appeal to the hearing examiner. If neither
7 party entirely prevails and the hearing examiner upholds part of
8 the grievance and denies part of it, the hearing examiner's fees and
9 expenses shall be shared equally by the employee and the
10 department.

11 Sec. 158.058. STEP III GRIEVANCE PROCEDURE. (a) To
12 continue the grievance procedure, an employee who did not appeal to
13 a hearing examiner under Section 158.057(d) must complete a step
14 III grievance form and file it with the commission within 15
15 calendar days after the date the employee receives the sheriff's
16 response under Section 158.057.

17 (b) If the step III grievance form is timely filed under
18 Subsection (a), the commission shall arrange a hearing of the
19 employee and a grievance examiner to be appointed by the commission
20 under Section 158.060. The hearing shall be held within 15 of the
21 aggrieved employee's working days after the date the form is filed.

22 (c) A hearing shall be conducted as an informal
23 administrative procedure. Grievances arising out of the same or
24 similar fact situations may be heard at the same hearing. A court
25 reporter shall record the hearing. All witnesses shall be examined
26 under oath. The employee, the employee's immediate supervisor or
27 other appropriate supervisor or both, the sheriff or the sheriff's

1 designated representative or both, and each person specifically
2 named in the grievance are parties to the hearing. The burden of
3 proof is on the aggrieved employee.

4 (d) The grievance examiner shall make written findings and a
5 recommendation for solution of the grievance within 15 calendar
6 days after the date the hearing ends. The findings and
7 recommendation shall be given to the commission and copies mailed
8 to the employee by certified mail, return receipt requested, at the
9 last home address provided by that employee, and to the sheriff.

10 (e) If the proposed solution is not acceptable to either the
11 employee or the sheriff, either party may file a step IV grievance
12 form with the commission in accordance with Section 158.059. If the
13 employee or the sheriff fails to timely file a step IV grievance
14 form, the solution is considered accepted by that person.

15 Sec. 158.059. STEP IV GRIEVANCE PROCEDURE. (a) If the
16 sheriff or the employee rejects the proposed solution under Section
17 158.058, the sheriff, the sheriff's designated representative, or
18 the employee must complete a step IV grievance form and file it with
19 the commission within 15 calendar days after the date the person
20 receives the grievance examiner's recommendation.

21 (b) The commission shall review the grievance examiner's
22 findings and recommendation and consider the transcript of the step
23 III hearing at the commission's next regularly scheduled meeting or
24 as soon as practicable. The transcript shall be filed within 30 days
25 of the step IV grievance being filed. The commission may for good
26 cause shown grant a reasonable delay not to exceed 30 days to file
27 the transcript. In no event may the commission render a decision

1 later than 30 days after the date the transcript is filed. If the
2 commission does not render a decision within 30 days after the date
3 the transcript is filed, the commission shall sustain the
4 employee's grievance.

5 (c) The commission shall base its decision solely on the
6 transcript and demonstrative evidence offered and accepted at the
7 step III hearing. The commission shall furnish a written copy of the
8 order containing its decision to the employee, the sheriff, and the
9 grievance examiner. The copy to the employee shall be mailed by
10 certified mail, return receipt requested, to the last home address
11 provided by that employee. The commission decision is final.

12 Sec. 158.060. GRIEVANCE EXAMINER. (a) The commission
13 shall appoint a grievance examiner by a majority vote. The
14 commission may appoint more than one grievance examiner if
15 necessary. The commission may appoint a different grievance
16 examiner for each grievance. An examiner may not be affiliated with
17 any other department and is responsible only to the commission. The
18 commission shall pay an examiner from a special budget established
19 for this purpose, and shall provide an examiner sufficient office
20 space and clerical support.

21 (b) The grievance examiner may:

22 (1) impose a reasonable limit on the time allowed each
23 party and the number of witnesses to be heard;

24 (2) administer oaths;

25 (3) examine a witness under oath;

26 (4) subpoena and require the attendance of witnesses
27 or the production of documents, books, or other pertinent material;

1 and

2 (5) accept affidavits instead of or in addition to
3 live testimony.

4 Sec. 158.061. SPECIAL PROVISIONS FOR STEPS I AND II. (a)

5 If the aggrieved employee's immediate supervisor is the sheriff,
6 the steps prescribed by Sections 158.056 and 158.057 are combined.
7 The sheriff shall meet with the aggrieved employee and may not
8 appoint a representative.

9 (b) A sheriff, with the approval of the commission, may
10 change the procedure prescribed by Sections 158.056 and 158.057 to
11 reflect a change in a department's chain of command.

12 Sec. 158.062. MISCELLANEOUS GRIEVANCE PROVISIONS. (a) An
13 employee may, but is not required to, obtain a representative at any
14 time during the grievance procedure. The county is not obligated to
15 provide or pay the costs of providing representation. The
16 representative:

17 (1) is not required to be an attorney;

18 (2) is entitled to be present to advise the employee;

19 (3) is entitled to present any evidence or information
20 for the employee; and

21 (4) may not be prevented from fully participating in
22 any of the grievance proceedings.

23 (b) An employee may take reasonable time off from a job
24 assignment to file a grievance and attend a meeting or hearing.
25 Time taken to pursue a grievance may not be charged against that
26 employee. The employee shall be compensated on an overtime basis
27 for the time that employee spends at a grievance meeting or hearing

1 if:

2 (1) the meeting or hearing is scheduled at a time other
3 than that employee's normally assigned working hours; and

4 (2) that employee prevails in the grievance.

5 (c) If notice that a grievance meeting or hearing is to be
6 recorded is provided to all persons present at the meeting or
7 hearing, the employee, the sheriff, or the sheriff's designee may
8 record the meeting or hearing.

9 (d) The commission shall provide a suitable notice
10 explaining the grievance procedure prescribed by this subchapter
11 and furnish copies to the department. The notice shall be posted in
12 a prominent place or places within the department work areas to give
13 reasonable notice of the grievance procedure to each member of the
14 department.

15 (e) At the request of the sheriff or an employee who has
16 filed a grievance under this subchapter, the county's legal
17 department or the commission shall assist in resolving the
18 grievance.

19 (f) The commission is the official final custodian of all
20 records involving grievances. A depository for closed files
21 regarding grievances shall be maintained by the commission.

22 (g) An employee who files a grievance pursuant to this
23 section and Sections 158.055 through 158.061 is entitled to 48
24 hours notice of any meeting or hearing scheduled under Section
25 158.056(b), 158.057(b), 158.058(b), or 158.059(b). In the event
26 that the employee is not given 48 hours advance notice, the
27 employee's grievance shall be automatically sustained and no

1 further action may be had on the grievance.

2 (h) If the decision of the commission under Section 158.059
3 or the decision of a hearing examiner under Section 158.057 that has
4 become final is favorable to an employee, the sheriff shall
5 implement the relief granted to the employee not later than the 10th
6 day after the date on which the decision was issued. If the sheriff
7 intentionally fails to implement the relief within the 10-day
8 period, the county shall pay the employee \$1,000 for each day after
9 the 10-day period that the decision is not yet implemented.

10 SECTION 5. This Act takes effect immediately if it receives
11 a vote of two-thirds of all the members elected to each house, as
12 provided by Section 39, Article III, Texas Constitution. If this
13 Act does not receive the vote necessary for immediate effect, this
14 Act takes effect September 1, 2021.