

By: Bonnen

H.B. No. 2826

A BILL TO BE ENTITLED

AN ACT

relating to access to and review of a person's employment records held by a law enforcement agency.

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

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

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

(h) A police officer is entitled to view the contents of the officer's department file maintained under Subsection (g) and is entitled, on request, to a copy of any document in the officer's department file.

(i) A police department shall include in a police officer's department file maintained under Subsection (g) any statement that the officer requests to be included in the file.

1 SECTION 2. Section 1701.451, Occupations Code, is amended
2 by amending Subsections (a) and (a-1) and adding Subsections (d)
3 and (e) to read as follows:

4 (a) Before a law enforcement agency may hire a person
5 licensed under this chapter, the agency head or the agency head's
6 designee must:

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

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

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

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

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

20 (D) reviewed the person's employment records
21 from [contacted] each of the person's previous law enforcement
22 employers.

23 (a-1) A law enforcement agency, on receipt of [that obtains]
24 a consent form described by Subsection (a)(2)(B), shall make the
25 person's employment records available to a hiring law enforcement
26 agency [on request]. The commission by rule shall prescribe the
27 manner by which a law enforcement agency shall make a person's

1 employment records available to a hiring law enforcement agency.

2 (d) A law enforcement agency's failure to review a person's
3 employment records as required by Subsection (a)(2)(D) or to make a
4 person's employment records available as required by Subsection
5 (a-1) constitutes grounds for imposing an administrative penalty
6 under Section 1701.507.

7 (e) To the extent of any conflict between this section and
8 Section 143.089, Local Government Code, this section controls.

9 SECTION 3. Section 143.089, Local Government Code, as
10 amended by this Act, applies to a request to view or obtain a copy of
11 information made on or after the effective date of this Act.
12 Section 143.089(h), Local Government Code, as added by this Act,
13 applies to the entire contents of a department file regardless of
14 the date on which a document or other information was placed in the
15 department file.

16 SECTION 4. (a) Not later than December 1, 2021, the Texas
17 Commission on Law Enforcement shall adopt rules and update forms as
18 necessary to comply with Section 1701.451, Occupations Code, as
19 amended by this Act.

20 (b) Section 1701.451, Occupations Code, as amended by this
21 Act, applies only to the hiring of a person by a law enforcement
22 agency that occurs on or after December 1, 2021. The hiring of a
23 person by a law enforcement agency that occurs before that date is
24 governed by the law in effect immediately before the effective date
25 of this Act, and the former law is continued in effect for that
26 purpose.

27 SECTION 5. This Act takes effect September 1, 2021.