

By: Rodriguez

H.B. No. 3654

A BILL TO BE ENTITLED

AN ACT

1
2 relating to the powers and duties of the Texas Commission on Law
3 Enforcement and law enforcement agencies regarding law enforcement
4 officers and the use of body cameras; authorizing fees.

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

6 SECTION 1. Section 1701.154, Occupations Code, is amended
7 to read as follows:

8 Sec. 1701.154. FEES. (a) The commission may establish
9 reasonable and necessary fees for the administration of this
10 chapter, including reasonable and necessary fees for the
11 administration of Section 1701.257.

12 (b) The commission shall establish a fee for the issuance of
13 a license under this chapter as follows:

14 (1) \$80 for a peace officer license; and

15 (2) \$25 for a license issued under this chapter other
16 than a license described by Subdivision (1).

17 SECTION 2. Subchapter D, Chapter 1701, Occupations Code, is
18 amended by adding Section 1701.165 to read as follows:

19 Sec. 1701.165. MODEL POLICY ON USE OF FORCE. (a) The
20 commission shall develop and make available to all law enforcement
21 agencies in this state a model policy and associated training
22 materials regarding the use of force by peace officers. The model
23 policy must:

24 (1) be designed to minimize the number and severity of

1 incidents in which peace officers use force and include an emphasis
2 on conflict de-escalation and the use of force in a manner
3 proportionate to the threat posed and to the seriousness of the
4 alleged offense; and

5 (2) be consistent with the guiding principles on the
6 use of force issued by the Police Executive Research Forum.

7 (b) In developing a model policy under this section, the
8 commission shall consult with:

9 (1) law enforcement agencies and organizations,
10 including the Police Executive Research Forum and other national
11 experts on police management and training; and

12 (2) community organizations.

13 (c) On request of a law enforcement agency, the commission
14 shall provide the agency with training regarding the policy
15 developed under Subsection (a).

16 SECTION 3. Section 1701.307(a), Occupations Code, is
17 amended to read as follows:

18 (a) The commission shall issue an appropriate officer or
19 county jailer license to a person who, as required by this chapter:

20 (1) submits an application;

21 (2) completes the required training;

22 (3) passes the required examination;

23 (4) is declared to be in satisfactory psychological
24 and emotional health and free from drug dependency or illegal drug
25 use; ~~and~~

26 (5) demonstrates weapons proficiency; and

27 (6) pays any required fees.

1 SECTION 4. Section 1701.3071(a), Occupations Code, is
2 amended to read as follows:

3 (a) The commission shall issue a telecommunicator license
4 to a person who:

5 (1) submits an application;

6 (2) completes the required training;

7 (3) passes the required examination; ~~and~~

8 (4) meets any other requirement of this chapter and
9 the rules prescribed by the commission to qualify as a
10 telecommunicator; and

11 (5) pays any required fees.

12 SECTION 5. The heading to Subchapter K, Chapter 1701,
13 Occupations Code, is amended to read as follows:

14 SUBCHAPTER K. DISCIPLINARY FOUNDATIONS AND PROCEDURES

15 SECTION 6. Subchapter K, Chapter 1701, Occupations Code, is
16 amended by adding Section 1701.5015 to read as follows:

17 Sec. 1701.5015. CERTAIN GROUNDS FOR DISCIPLINE OF PEACE
18 OFFICER. (a) The commission by rule shall establish grounds under
19 which the commission shall suspend or revoke a peace officer
20 license on a determination by the commission that the license
21 holder's continued performance of duties as a peace officer
22 constitutes a threat to the public welfare.

23 (b) The grounds under Subsection (a) must include:

24 (1) lack of competence in performing the license
25 holder's duties as a peace officer;

26 (2) illegal drug use or an addiction that
27 substantially impairs the license holder's ability to perform the

1 license holder's duties as a peace officer;

2 (3) lack of truthfulness in court proceedings or other
3 governmental operations, including:

4 (A) making a false statement in an offense report
5 or other report as part of an investigation, unless the false
6 statement is recanted not later than the 10th day after the date the
7 false statement is made;

8 (B) making a false statement to obtain employment
9 as a peace officer;

10 (C) making a false entry in court records or
11 tampering with evidence, regardless of whether the license holder
12 is prosecuted or convicted for the false entry or tampering; or

13 (D) engaging in conduct designed to impair the
14 results or procedure of an examination or testing process
15 associated with obtaining employment as a peace officer or a
16 promotion to a higher rank;

17 (4) failure to follow the directives of a supervising
18 officer or to follow the policies of the employing law enforcement
19 agency;

20 (5) discriminatory conduct, including engaging in a
21 course of conduct or a single egregious act, based on the race,
22 color, religion, sex, pregnancy, national origin, age, disability,
23 or sexual orientation of another that would cause a reasonable
24 person to believe that the license holder is unable to perform the
25 license holder's duties as a peace officer in a fair manner; or

26 (6) conduct indicating a pattern of:

27 (A) excessive use of force;

1 (B) abuse of official capacity;

2 (C) inappropriate relationships with persons in
3 the custody of the license holder;

4 (D) sexual harassment or sexual misconduct while
5 performing the license holder's duties as a peace officer; or

6 (E) misuse of information obtained as a result of
7 the license holder's employment as a peace officer and related to
8 the enforcement of criminal offenses.

9 SECTION 7. Section 1701.655(b), Occupations Code, is
10 amended to read as follows:

11 (b) A policy described by Subsection (a) must ensure that a
12 body worn camera is activated only for a law enforcement purpose and
13 must include:

14 (1) guidelines for when a peace officer should
15 activate a camera or discontinue a recording currently in progress,
16 considering the need for privacy in certain situations and at
17 certain locations;

18 (2) provisions relating to data retention, including a
19 provision requiring the retention of video for a minimum period of
20 90 days;

21 (3) provisions relating to storage of video and audio,
22 creation of backup copies of the video and audio, and maintenance of
23 data security;

24 (4) guidelines for public access, through open records
25 requests, to recordings that are public information;

26 (5) ~~[provisions entitling an officer to access any~~
27 ~~recording of an incident involving the officer before the officer~~

1 ~~is required to make a statement about the incident,~~
2 ~~[(6)]~~ procedures for supervisory or internal review;
3 and
4 (6) ~~[(7)]~~ the handling and documenting of equipment
5 and malfunctions of equipment.

6 SECTION 8. Section 1701.660, Occupations Code, is amended
7 to read as follows:

8 Sec. 1701.660. RECORDINGS AS EVIDENCE. (a) Except as
9 provided by Subsections (a-1) and (b), a recording created with a
10 body worn camera and documenting an incident that involves the use
11 of deadly force by a peace officer or that is otherwise related to
12 an administrative or criminal investigation of an officer may not
13 be deleted or ~~[,]~~ destroyed~~[, or released to the public]~~ until all
14 criminal matters have been finally adjudicated and all related
15 administrative investigations have concluded.

16 (a-1) A law enforcement agency shall ~~[may]~~ permit a person
17 who is depicted in a recording of an incident described by
18 Subsection (a) or, if the person is deceased, the person's
19 authorized representative, to view the recording, on request of the
20 applicable person, provided that ~~[the law enforcement agency~~
21 ~~determines that the viewing furthers a law enforcement purpose and~~
22 ~~provided that]~~ any authorized representative who is permitted to
23 view the recording was not a witness to the incident. ~~[A person~~
24 ~~viewing a recording may not duplicate the recording or capture~~
25 ~~video or audio from the recording.]~~ A permitted viewing of a
26 recording under this subsection is not considered to be a release of
27 public information for purposes of Chapter 552, Government Code.

1 (b) A law enforcement agency shall adopt a policy for
2 releasing [~~may release~~] to the public a recording described by
3 Subsection (a) that prioritizes access to the recording in the
4 following order:

5 (1) the civilian oversight system associated with the
6 law enforcement agency, if any;

7 (2) the officer who used deadly force or is under
8 investigation and the individual who is the subject of the
9 recording, or if the individual is deceased, the individual's
10 authorized representative, and any attorney representing the
11 officer, individual, or representative described in this
12 subdivision; and

13 (3) the public [~~if the law enforcement agency~~
14 ~~determines that the release furthers a law enforcement purpose~~].

15 [~~(c) This section does not affect the authority of a law~~
16 ~~enforcement agency to withhold under Section 552.108, Government~~
17 ~~Code, information related to a closed criminal investigation that~~
18 ~~did not result in a conviction or a grant of deferred adjudication~~
19 ~~community supervision.~~]

20 SECTION 9. Not later than January 1, 2022, the Texas
21 Commission on Law Enforcement shall:

22 (1) develop and make available the model policy and
23 associated training materials required under Section 1701.165,
24 Occupations Code, as added by this Act; and

25 (2) adopt the rules required by Section 1701.5015,
26 Occupations Code, as added by this Act.

27 SECTION 10. Section 1701.154, Occupations Code, as amended

1 by this Act, applies only to an application for a license issued
2 under Chapter 1701, Occupations Code, that is submitted on or after
3 the effective date of this Act. An application submitted before the
4 effective date of this Act is governed by the law in effect on the
5 date the application was submitted, and the former law is continued
6 in effect for that purpose.

7 SECTION 11. Section 1701.5015, Occupations Code, as added
8 by this Act, applies only to conduct that occurs on or after January
9 1, 2022. Conduct that occurs before January 1, 2022, is governed by
10 the law in effect immediately before the effective date of this Act,
11 and the former law is continued in effect for that purpose.

12 SECTION 12. This Act takes effect September 1, 2021.