

By: Crockett

H.B. No. 3723

A BILL TO BE ENTITLED

AN ACT

1
2 relating to misconduct and standards of conduct applicable to
3 certain persons licensed by the Texas Commission on Law
4 Enforcement.

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

6 SECTION 1. Chapter 2, Code of Criminal Procedure, is
7 amended by adding Articles 2.1397 and 2.1398 to read as follows:

8 Art. 2.1397. PEACE OFFICER AND JAILER STANDARDS OF CONDUCT.

9 (a) In this article, "law enforcement agency" means an agency of
10 the state or an agency of a political subdivision of the state
11 authorized by law to employ peace officers. The term includes a
12 sheriff.

13 (b) Each law enforcement agency in this state shall adopt
14 the standards of conduct for peace officers or county jailers, as
15 applicable, developed by the Texas Commission on Law Enforcement
16 under Section 1701.166, Occupations Code.

17 (c) A law enforcement agency may tailor the contents of the
18 applicable standards as necessary based on the agency's size,
19 jurisdiction, and resources.

20 Art. 2.1398. DUTIES OF LAW ENFORCEMENT AGENCY REGARDING
21 MISCONDUCT. (a) In this article, "law enforcement agency" means an
22 agency of the state or an agency of a political subdivision of the
23 state authorized by law to employ peace officers. The term includes
24 a sheriff.

1 (b) The chief administrator of a law enforcement agency in
2 this state shall report to the Texas Commission on Law Enforcement
3 each allegation that a person licensed under Chapter 1701,
4 Occupations Code, and employed by the agency engaged in any
5 improper or unlawful acts, including:

6 (1) being convicted of, placed on deferred
7 adjudication for, or entering a plea of guilty or nolo contendere to
8 any offense other than a misdemeanor punishable by fine only;

9 (2) engaging in conduct that would constitute any
10 offense other than a misdemeanor punishable by fine only;

11 (3) falsifying a police report or evidence in a
12 criminal investigation;

13 (4) destroying evidence in a criminal investigation;

14 (5) using excessive force on multiple occasions;

15 (6) accepting a bribe;

16 (7) engaging in fraud;

17 (8) unlawfully using a controlled substance;

18 (9) engaging in an act for which the officer is liable
19 under 42 U.S.C. Section 1983;

20 (10) committing perjury;

21 (11) making, submitting, or filing, or causing to be
22 submitted or filed, a false report to the Texas Commission on Law
23 Enforcement;

24 (12) misusing an official position or
25 misappropriating property;

26 (13) engaging in an unprofessional relationship with
27 an individual arrested or detained, or in the custody of a

1 correctional facility;

2 (14) committing sexual harassment involving physical
3 contact; or

4 (15) misusing criminal history record information.

5 (c) A report required under Subsection (b) must be in
6 writing on a form prescribed by the Texas Commission on Law
7 Enforcement and submitted not later than the 15th day after the date
8 the law enforcement agency is made aware of the allegation.

9 (d) The chief administrator of the law enforcement agency
10 shall update any report submitted under Subsection (b) after the
11 agency's investigation into the allegation is concluded. The
12 updated report must include any disciplinary action taken against
13 the license holder, including whether the license holder was
14 terminated or if the license holder resigned, retired, or separated
15 in lieu of termination.

16 (e) On a finding by the Texas Commission on Law Enforcement
17 that the chief administrator of a law enforcement agency
18 intentionally failed to submit a report required under Subsection
19 (b), the commission shall begin disciplinary proceedings against
20 the chief administrator.

21 SECTION 2. Section 1701.151, Occupations Code, is amended
22 to read as follows:

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

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

27 (2) establish minimum standards relating to

1 competence and reliability, including education, training,
2 physical, mental, and moral standards, for licensing as an officer,
3 county jailer, public security officer, or telecommunicator;

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

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

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

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

17 (B) performance of the commission's other
18 functions, including the operation of the database under Section
19 1701.165; and

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

23 SECTION 3. Subchapter D, Chapter 1701, Occupations Code, is
24 amended by adding Sections 1701.165 and 1701.166 to read as
25 follows:

26 Sec. 1701.165. DATABASE OF LICENSE HOLDER MISCONDUCT. (a)
27 The commission shall establish an electronic database for

1 information concerning license holder misconduct to provide for the
2 collection and analysis of information by the commission. The
3 commission shall:

4 (1) allow law enforcement agencies in this state to
5 electronically access the database for purposes of obtaining
6 information related to the following concerning a license holder:

7 (A) hiring;

8 (B) disciplinary actions;

9 (C) resignations or terminations; and

10 (D) certification and training;

11 (2) adopt policies and procedures under which
12 specified personnel of a law enforcement agency may access the
13 database for a purpose described by Subdivision (1), including
14 establishing qualifications for access; and

15 (3) distribute the policies and procedures adopted
16 under Subdivision (2) to law enforcement agencies in this state.

17 (b) The commission shall include in the database reports
18 submitted to the commission under Article 2.1398, Code of Criminal
19 Procedure.

20 (c) The commission shall prescribe and make available to law
21 enforcement agencies in this state a form to be used for submitting
22 a report of an allegation of misconduct to the database. The form
23 must require the law enforcement agency to report:

24 (1) the license holder's:

25 (A) date of hire;

26 (B) position; and

27 (C) identifying characteristics; and

1 (2) detailed information concerning:

2 (A) the nature of the misconduct; and

3 (B) the disposition of the allegation.

4 (d) The commission is not liable for civil damages for
5 providing information contained in the database if the commission
6 released the information as provided by this section and the
7 procedures adopted by the commission under this section. A law
8 enforcement agency, agency head, or other law enforcement official
9 is not liable for civil damages for submitting a report to the
10 database if the report is made in good faith.

11 (e) Any allegation of misconduct reported to the database is
12 not considered final until all applicable appeals have been
13 exhausted or waived by the license holder named in the allegation.

14 (f) The commission shall adopt appropriate measures to
15 ensure the security of the database in accordance with applicable
16 state or federal laws or rules.

17 (g) Information maintained in the database is confidential
18 and not subject to disclosure under Chapter 552, Government Code.

19 Sec. 1701.166. STANDARDS OF CONDUCT. (a) The commission by
20 rule shall prescribe standards of conduct for officers, county
21 jailers, and school marshals.

22 (b) The standards of conduct must establish best practices
23 with respect to the following as appropriate for the type of
24 license:

25 (1) professionalism;

26 (2) sexual harassment;

27 (3) sexual assault;

- 1 (4) domestic violence;
- 2 (5) any criminal offense against a minor;
- 3 (6) the use of alcohol or controlled substances;
- 4 (7) the use of force;
- 5 (8) the use of tactical teams;
- 6 (9) the use of invasive surveillance techniques;
- 7 (10) the use of brief, noninvasive stops of persons
8 suspected of committing an offense;
- 9 (11) arrests;
- 10 (12) the issuance of citations in lieu of arrest for
11 misdemeanor offenses punishable by fine only;
- 12 (13) the release of recordings taken by body worn
13 cameras; and
- 14 (14) the conduct of interrogations of persons
15 suspected of committing an offense.

16 (c) In adopting the standards of conduct, the commission
17 shall ensure members of the public are given an opportunity to
18 provide input.

19 (d) The commission shall make the standards of conduct and
20 any associated training materials available on the commission's
21 Internet website.

22 (e) The commission shall biennially review and update the
23 standards of conduct as necessary.

24 (f) Not later than December 1 of each year, the commission
25 shall submit a report regarding the standards of conduct to the
26 governor, the lieutenant governor, the speaker of the house of
27 representatives, and each standing committee of the legislature

1 with primary jurisdiction over the commission or criminal justice
2 matters. The report must include:

3 (1) information regarding the extent to which law
4 enforcement agencies have adopted and implemented the standards of
5 conduct; and

6 (2) any legislative recommendations necessary to
7 ensure uniform implementation of the standards.

8 SECTION 4. The heading to Section 1701.451, Occupations
9 Code, is amended to read as follows:

10 Sec. 1701.451. DUTIES OF LAW ENFORCEMENT AGENCY SEEKING TO
11 HIRE LICENSE HOLDER [~~PREEMPLOYMENT REQUEST FOR EMPLOYMENT~~
12 ~~TERMINATION REPORT AND SUBMISSION OF BACKGROUND CHECK CONFIRMATION~~
13 ~~FORM~~].

14 SECTION 5. Section 1701.451(a), Occupations Code, is
15 amended to read as follows:

16 (a) Before a law enforcement agency may hire a person
17 licensed under this chapter, the agency head or the agency head's
18 designee must:

19 (1) make a request to the commission for any
20 employment termination report regarding the person that is
21 maintained by the commission under this subchapter; ~~and~~

22 (2) review any information regarding the person that
23 is maintained in the database under Section 1701.165; and

24 (3) submit to the commission on the form prescribed by
25 the commission confirmation that the agency:

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

1 (B) obtained the person's written consent on a
2 form prescribed by the commission for the agency to view the
3 person's employment records;

4 (C) obtained from the commission any service or
5 education records regarding the person maintained by the
6 commission; ~~and~~

7 (D) contacted each of the person's previous law
8 enforcement employers; and

9 (E) reviewed the information in the database as
10 required by Subdivision (2).

11 SECTION 6. Not later than January 1, 2022, the Texas
12 Commission on Law Enforcement shall:

13 (1) adopt rules and standards of conduct and prescribe
14 forms necessary to implement the changes in law made by this Act;
15 and

16 (2) establish the database required by Section
17 1701.165, Occupations Code, as added by this Act.

18 SECTION 7. Section 1701.451(a), Occupations Code, as
19 amended by this Act, applies only with respect to a person hired on
20 or after January 1, 2022. A person hired before January 1, 2022, is
21 governed by the law in effect immediately before the effective date
22 of this Act, and the former law is continued in effect for that
23 purpose.

24 SECTION 8. (a) Not later than February 1, 2022, the Texas
25 Commission on Law Enforcement shall submit to the governor, the
26 lieutenant governor, the speaker of the house of representatives,
27 and each standing committee of the legislature with primary

1 jurisdiction over the commission or criminal justice matters a
2 report on the standards of conduct adopted under Section 1701.166,
3 Occupations Code, as added by this Act. The report must include
4 information related to the development of the standards and the
5 steps the commission has taken to make the standards available to
6 law enforcement agencies in this state.

7 (b) The Texas Commission on Law Enforcement shall submit its
8 first report under Section 1701.166(f), Occupations Code, as added
9 by this Act, not later than December 1, 2022.

10 SECTION 9. Not later than March 1, 2022, each law
11 enforcement agency in this state shall adopt the applicable
12 standards of conduct required by Article 2.1397, Code of Criminal
13 Procedure, as added by this Act.

14 SECTION 10. This Act takes effect September 1, 2021.