

By: Huffman, et al.

S.B. No. 24

A BILL TO BE ENTITLED

AN ACT

relating to the procedures required before a law enforcement agency hires a peace officer.

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 Subsection (h) to read as follows:

(g) A fire or police department may maintain a 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 personnel file.

(h) As provided by Section 1701.4511, Occupations Code, a law enforcement agency hiring a police officer is entitled to view the contents of the officer's personnel file maintained under Subsection (g).

SECTION 2. The heading to Subchapter J, Chapter 1701, Occupations Code, is amended to read as follows:

SUBCHAPTER J. EMPLOYMENT RECORDS AND PREEMPLOYMENT PROCEDURE

SECTION 3. The heading to Section 1701.451, Occupations

1 Code, is amended to read as follows:

2 Sec. 1701.451. PREEMPLOYMENT PROCEDURE: NON-PEACE OFFICER
3 POSITIONS [~~REQUEST FOR EMPLOYMENT TERMINATION REPORT AND~~
4 ~~SUBMISSION OF BACKGROUND CHECK CONFIRMATION FORM~~].

5 SECTION 4. Section 1701.451(a), Occupations Code, is
6 amended to read as follows:

7 (a) Before a law enforcement agency may hire a person
8 licensed under this chapter for a position other than a peace
9 officer position, the agency head or the agency head's designee
10 must:

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

14 (2) submit to the commission on the form prescribed by
15 the commission confirmation that the agency:

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

18 (B) obtained the person's written consent on a
19 form prescribed by the commission for the agency to view the
20 person's employment records;

21 (C) obtained from the commission any service or
22 education records regarding the person maintained by the
23 commission; and

24 (D) contacted each of the person's previous law
25 enforcement employers.

26 SECTION 5. Subchapter J, Chapter 1701, Occupations Code, is
27 amended by adding Section 1701.4511 to read as follows:

1 Sec. 1701.4511. PREEMPLOYMENT PROCEDURE: PEACE OFFICER
2 POSITIONS. (a) Before a law enforcement agency may hire a person
3 licensed under this chapter for a peace officer position, the
4 agency shall:

5 (1) obtain the officer's written consent, on a form and
6 in the manner prescribed by the commission, for the agency to review
7 the information required to be reviewed under this section;

8 (2) request from the commission and any other
9 applicable person, on a form and in the manner prescribed by the
10 commission, information required to be reviewed under this section;
11 and

12 (3) submit to the commission, on a form and in the
13 manner prescribed by the commission, confirmation that the agency,
14 to the best of the agency's ability before hiring the person:

15 (A) contacted each entity or individual
16 necessary to obtain the information required to be reviewed under
17 this section; and

18 (B) except as provided by Subsection (b),
19 obtained and reviewed as related to the officer, as applicable:

20 (i) personnel files and other employee
21 records from each previous law enforcement agency employer,
22 including the employment application submitted to the previous
23 employer;

24 (ii) employment termination reports
25 maintained by the commission under this subchapter;

26 (iii) service records maintained by the
27 commission;

1 (iv) proof that the officer meets the
2 minimum qualifications for enrollment in a peace officer training
3 program under Section 1701.255(c);

4 (v) a military veteran's Department of
5 Defense Form DD-214 or other military discharge record;

6 (vi) criminal history record information;

7 (vii) information on pending warrants as
8 available through the Texas Crime Information Center and National
9 Crime Information Center;

10 (viii) evidence of financial
11 responsibility as required by Section 601.051, Transportation
12 Code;

13 (ix) a driving record from the Department
14 of Public Safety;

15 (x) proof of U.S. citizenship; and

16 (xi) information on the officer's
17 background from at least three personal references and at least two
18 professional references.

19 (b) If an entity or individual contacted for information
20 required to be reviewed under this section refused to provide the
21 information or did not respond to the request for information, the
22 confirmation submitted to the commission must document the manner
23 of the request and the refusal or lack of response.

24 (c) If the commission or a law enforcement agency receives a
25 request for information and the officer's consent on the forms and
26 in the manner prescribed by the commission, the commission or
27 agency shall provide the information.

1 (d) The confirmation form submitted to the commission under
2 this section is not confidential and is subject to disclosure under
3 Chapter 552, Government Code.

4 (e) The commission shall:

5 (1) by rule establish the forms and procedures
6 required by this section, including:

7 (A) the process by which a law enforcement agency
8 shall make a person's employment records electronically available
9 to a law enforcement agency hiring a police officer;

10 (B) appropriate privacy and security protections
11 for the process described by Paragraph (A); and

12 (C) a rule prohibiting a confirmation form
13 submitted to the commission under this section from containing
14 confidential information described by Section 552.1175(b),
15 Government Code, regarding the officer who is the subject of the
16 confirmation form;

17 (2) post the forms and procedures on the commission's
18 Internet website; and

19 (3) retain a record of each confirmation form
20 submitted under this section.

21 (f) The head of a law enforcement agency or the agency
22 head's designee shall review and sign each confirmation form
23 required under this section before submission to the commission.
24 The failure of an agency head or the agency head's designee to
25 comply with this subsection constitutes grounds for suspension of
26 the agency head's license under Section 1701.501.

27 SECTION 6. Section 1701.456(b), Occupations Code, is

1 amended to read as follows:

2 (b) A law enforcement agency, agency head, or other law
3 enforcement official is not liable for civil damages for:

4 (1) a report made by that agency or person if the
5 report is made in good faith; or

6 (2) making a person's information available to a
7 hiring law enforcement agency under Section 1701.4511.

8 SECTION 7. (a) Not later than January 1, 2022, the Texas
9 Commission on Law Enforcement shall adopt the rules necessary to
10 implement Section 1701.4511, Occupations Code, as added by this
11 Act.

12 (b) The changes in law made by this Act apply only to the
13 hiring of a person by a law enforcement agency that occurs on or
14 after January 1, 2022. The hiring of a person by a law enforcement
15 agency that occurs before that date is governed by the law in effect
16 immediately before the effective date of this Act, and the former
17 law is continued in effect for that purpose.

18 SECTION 8. This Act takes effect September 1, 2021.