

By: Huffman, et al.  
(Bonnen)

S.B. No. 24

Substitute the following for S.B. No. 24:

By: White

C.S.S.B. No. 24

A BILL TO BE ENTITLED

AN ACT

relating to the procedures required before a law enforcement agency hires certain persons.

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 1701.451, 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 [~~REQUEST FOR~~  
3 ~~EMPLOYMENT TERMINATION REPORT AND SUBMISSION OF BACKGROUND CHECK~~  
4 ~~CONFIRMATION FORM~~].

5           SECTION 4. Section 1701.451, Occupations Code, is amended  
6 by amending Subsections (a), (b), and (c) and adding Subsections  
7 (d), (e), and (f) to read as follows:

8           (a) Before a law enforcement agency may hire a person  
9 licensed under this chapter, the agency [~~head or the agency head's~~  
10 ~~designee~~] must, on a form and in the manner prescribed by the  
11 commission:

12                   (1) obtain the person's written consent for the agency  
13 to review the information required to be reviewed under this  
14 section; [~~make a request to the commission for any employment~~  
15 ~~termination report regarding the person that is maintained by the~~  
16 ~~commission under this subchapter, and]~~

17                   (2) request from the commission and any other  
18 applicable person information required to be reviewed under this  
19 section; and

20                   (3) submit to the commission confirmation that the  
21 agency, to the best of the agency's ability before hiring the  
22 person:

23                           (A) contacted each entity or individual  
24 necessary to obtain the information required to be reviewed under  
25 this section; and

26                           (B) except as provided by Subsection (b),  
27 obtained and reviewed as related to the person, as applicable:

1                   (i) personnel files and other employee  
2 records from each previous law enforcement agency employer,  
3 including the employment application submitted to the previous  
4 employer;

5                   (ii) employment termination reports  
6 maintained by the commission under this subchapter;

7                   (iii) service records maintained by the  
8 commission;

9                   (iv) proof that the person meets the  
10 minimum qualifications for enrollment in a training program under  
11 Section 1701.251(a);

12                   (v) a military veteran's United States  
13 Department of Defense Form DD-214 or other military discharge  
14 record;

15                   (vi) criminal history record information;

16                   (vii) information on pending warrants as  
17 available through the Texas Crime Information Center and National  
18 Crime Information Center;

19                   (viii) evidence of financial  
20 responsibility as required by Section 601.051, Transportation  
21 Code;

22                   (ix) a driving record from the Department  
23 of Public Safety;

24                   (x) proof of United States citizenship; and

25                   (xi) information on the person's background  
26 from at least three personal references and at least two  
27 professional references [~~submit to the commission on the form~~

1 ~~prescribed by the commission confirmation that the agency:~~

2 ~~[(A) conducted in the manner prescribed by the~~  
3 ~~commission a criminal background check regarding the person;~~

4 ~~[(B) obtained the person's written consent on a~~  
5 ~~form prescribed by the commission for the agency to view the~~  
6 ~~person's employment records;~~

7 ~~[(C) obtained from the commission any service or~~  
8 ~~education records regarding the person maintained by the~~  
9 ~~commission; and~~

10 ~~[(D) contacted each of the person's previous law~~  
11 ~~enforcement employers].~~

12 (b) If an entity or individual contacted for information  
13 required to be reviewed under this section refused to provide the  
14 information or did not respond to the request for information, the  
15 confirmation submitted to the commission must document the manner  
16 of the request and the refusal or lack of response [~~The commission~~  
17 ~~by rule shall establish a system for verifying an electronically~~  
18 ~~submitted request required by Subsection (a)(1)].~~

19 (c) If the commission or a law enforcement agency receives  
20 from a law enforcement agency a request for information under this  
21 section and the person's consent on the forms and in the manner  
22 prescribed by the commission [~~that complies with Subsections (a)(1)~~  
23 ~~and (b)], the commission or agency [~~employee having the~~  
24 ~~responsibility to maintain any employment termination report~~  
25 ~~regarding the person who is the subject of the request]~~ shall  
26 provide the information [~~release the report]~~ to the requesting  
27 agency.~~

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 person licensed under this  
10 chapter;

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

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

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

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

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

1 SECTION 5. Section 1701.456(b), Occupations Code, is  
2 amended to read as follows:

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

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

7 (2) making a person's information available to a  
8 hiring law enforcement agency under Section 1701.451.

9 SECTION 6. Section 1701.451(a-1), Occupations Code, is  
10 repealed.

11 SECTION 7. (a) Not later than January 1, 2022, the Texas  
12 Commission on Law Enforcement shall adopt the rules necessary to  
13 implement Section 1701.451, Occupations Code, as amended by this  
14 Act.

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

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