

1-1 By: Huffman S.B. No. 24  
1-2 (In the Senate - Filed March 11, 2021; March 11, 2021, read  
1-3 first time and referred to Committee on Jurisprudence;  
1-4 March 26, 2021, reported adversely, with favorable Committee  
1-5 Substitute by the following vote: Yeas 5, Nays 0; March 26, 2021,  
1-6 sent to printer.)

1-7 COMMITTEE VOTE

	<u>Yea</u>	<u>Nay</u>	<u>Absent</u>	<u>PNV</u>
1-8				
1-9	Huffman	X		
1-10	Hinojosa	X		
1-11	Creighton	X		
1-12	Hughes	X		
1-13	Johnson	X		

1-14 COMMITTEE SUBSTITUTE FOR S.B. No. 24 By: Hughes

1-15 A BILL TO BE ENTITLED  
1-16 AN ACT

1-17 relating to the procedures required before a law enforcement agency  
1-18 hires a peace officer.

1-19 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

1-20 SECTION 1. Section 143.089, Local Government Code, is  
1-21 amended by amending Subsection (g) and adding Subsection (h) to  
1-22 read as follows:

1-23 (g) A fire or police department may maintain a personnel  
1-24 file on a fire fighter or police officer employed by the department  
1-25 for the department's use. Except as provided by Subsection (h),  
1-26 ~~[but]~~ the department may not release any information contained in  
1-27 the department file to any agency or person requesting information  
1-28 relating to a fire fighter or police officer. The department shall  
1-29 refer to the director or the director's designee a person or agency  
1-30 that requests information that is maintained in the fire fighter's  
1-31 or police officer's personnel file.

1-32 (h) As provided by Section 1701.4511, Occupations Code, a  
1-33 law enforcement agency hiring a police officer is entitled to view  
1-34 the contents of the officer's personnel file maintained under  
1-35 Subsection (g).

1-36 SECTION 2. The heading to Subchapter J, Chapter 1701,  
1-37 Occupations Code, is amended to read as follows:

1-38 SUBCHAPTER J. EMPLOYMENT RECORDS AND PREEMPLOYMENT PROCEDURE

1-39 SECTION 3. The heading to Section 1701.451, Occupations  
1-40 Code, is amended to read as follows:

1-41 Sec. 1701.451. PREEMPLOYMENT PROCEDURE: NON-PEACE OFFICER  
1-42 POSITIONS [REQUEST FOR EMPLOYMENT TERMINATION REPORT AND  
1-43 SUBMISSION OF BACKGROUND CHECK CONFIRMATION FORM].

1-44 SECTION 4. Section 1701.451(a), Occupations Code, is  
1-45 amended to read as follows:

1-46 (a) Before a law enforcement agency may hire a person  
1-47 licensed under this chapter for a position other than a peace  
1-48 officer position, the agency head or the agency head's designee  
1-49 must:

1-50 (1) make a request to the commission for any  
1-51 employment termination report regarding the person that is  
1-52 maintained by the commission under this subchapter; and

1-53 (2) submit to the commission on the form prescribed by  
1-54 the commission confirmation that the agency:

1-55 (A) conducted in the manner prescribed by the  
1-56 commission a criminal background check regarding the person;

1-57 (B) obtained the person's written consent on a  
1-58 form prescribed by the commission for the agency to view the  
1-59 person's employment records;

1-60 (C) obtained from the commission any service or

2-1 education records regarding the person maintained by the  
 2-2 commission; and  
 2-3 (D) contacted each of the person's previous law  
 2-4 enforcement employers.

2-5 SECTION 5. Subchapter J, Chapter 1701, Occupations Code, is  
 2-6 amended by adding Section 1701.4511 to read as follows:

2-7 Sec. 1701.4511. PREEMPLOYMENT PROCEDURE: PEACE OFFICER  
 2-8 POSITIONS. (a) Before a law enforcement agency may hire a person  
 2-9 licensed under this chapter for a peace officer position, the  
 2-10 agency shall:

2-11 (1) obtain the officer's written consent, on a form and  
 2-12 in the manner prescribed by the commission, for the agency to review  
 2-13 the information required to be reviewed under this section;

2-14 (2) request from the commission and any other  
 2-15 applicable person, on a form and in the manner prescribed by the  
 2-16 commission, information required to be reviewed under this section;  
 2-17 and

2-18 (3) submit to the commission, on a form and in the  
 2-19 manner prescribed by the commission, confirmation that the agency,  
 2-20 to the best of the agency's ability before hiring the person:

2-21 (A) contacted each entity or individual  
 2-22 necessary to obtain the information required to be reviewed under  
 2-23 this section; and

2-24 (B) except as provided by Subsection (b),  
 2-25 obtained and reviewed as related to the officer, as applicable:

2-26 (i) personnel files and other employee  
 2-27 records from each previous law enforcement agency employer,  
 2-28 including the employment application submitted to the previous  
 2-29 employer;

2-30 (ii) employment termination reports  
 2-31 maintained by the commission under this subchapter;

2-32 (iii) service records maintained by the  
 2-33 commission;

2-34 (iv) proof that the officer meets the  
 2-35 minimum qualifications for enrollment in a peace officer training  
 2-36 program under Section 1701.255(c);

2-37 (v) a military veteran's Department of  
 2-38 Defense Form DD-214 or other military discharge record;

2-39 (vi) criminal history record information;

2-40 (vii) information on pending warrants as  
 2-41 available through the Texas Crime Information Center and National  
 2-42 Crime Information Center;

2-43 (viii) evidence of financial  
 2-44 responsibility as required by Section 601.051, Transportation  
 2-45 Code;

2-46 (ix) a driving record from the Department  
 2-47 of Public Safety;

2-48 (x) proof of U.S. citizenship; and

2-49 (xi) information on the officer's  
 2-50 background from at least three personal references and at least two  
 2-51 professional references.

2-52 (b) If an entity or individual contacted for information  
 2-53 required to be reviewed under this section refused to provide the  
 2-54 information or did not respond to the request for information, the  
 2-55 confirmation submitted to the commission must document the manner  
 2-56 of the request and the refusal or lack of response.

2-57 (c) If the commission or a law enforcement agency receives a  
 2-58 request for information and the officer's consent on the forms and  
 2-59 in the manner prescribed by the commission, the commission or  
 2-60 agency shall provide the information.

2-61 (d) The confirmation form submitted to the commission under  
 2-62 this section is not confidential and is subject to disclosure under  
 2-63 Chapter 552, Government Code.

2-64 (e) The commission shall:

2-65 (1) by rule establish the forms and procedures  
 2-66 required by this section, including:

2-67 (A) the process by which a law enforcement agency  
 2-68 shall make a person's employment records electronically available  
 2-69 to a law enforcement agency hiring a police officer;

3-1 (B) appropriate privacy and security protections  
 3-2 for the process described by Paragraph (A); and  
 3-3 (C) a rule prohibiting a confirmation form  
 3-4 submitted to the commission under this section from containing  
 3-5 confidential information described by Section 552.1175(b),  
 3-6 Government Code, regarding the officer who is the subject of the  
 3-7 confirmation form;  
 3-8 (2) post the forms and procedures on the commission's  
 3-9 Internet website; and  
 3-10 (3) retain a record of each confirmation form  
 3-11 submitted under this section.

3-12 (f) The head of a law enforcement agency or the agency  
 3-13 head's designee shall review and sign each confirmation form  
 3-14 required under this section before submission to the commission.  
 3-15 The failure of an agency head or the agency head's designee to  
 3-16 comply with this subsection constitutes grounds for suspension of  
 3-17 the agency head's license under Section 1701.501.

3-18 SECTION 6. Section 1701.456(b), Occupations Code, is  
 3-19 amended to read as follows:

3-20 (b) A law enforcement agency, agency head, or other law  
 3-21 enforcement official is not liable for civil damages for:

3-22 (1) a report made by that agency or person if the  
 3-23 report is made in good faith; or

3-24 (2) making a person's information available to a  
 3-25 hiring law enforcement agency under Section 1701.4511.

3-26 SECTION 7. (a) Not later than January 1, 2022, the Texas  
 3-27 Commission on Law Enforcement shall adopt the rules necessary to  
 3-28 implement Section 1701.4511, Occupations Code, as added by this  
 3-29 Act.

3-30 (b) The changes in law made by this Act apply only to the  
 3-31 hiring of a person by a law enforcement agency that occurs on or  
 3-32 after January 1, 2022. The hiring of a person by a law enforcement  
 3-33 agency that occurs before that date is governed by the law in effect  
 3-34 immediately before the effective date of this Act, and the former  
 3-35 law is continued in effect for that purpose.

3-36 SECTION 8. This Act takes effect September 1, 2021.

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