

By: Hinojosa

S.B. No. 485

A BILL TO BE ENTITLED

AN ACT

relating to the powers and duties of the Texas Commission on Law Enforcement.

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

SECTION 1. Section 1701.151, Occupations Code, is amended to read as follows:

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

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

(2) establish minimum standards relating to competence and reliability, including education, training, physical, and mental [~~, and moral~~] standards, for licensing as an officer, county jailer, public security officer, or telecommunicator;

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

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

(5) contract as the commission considers necessary for

1 services, facilities, studies, and reports required for:

2 (A) cooperation with municipal, county, special
3 district, state, and federal law enforcement agencies in training
4 programs; and

5 (B) performance of the commission's other
6 functions; and

7 (6) conduct research and stimulate research by public
8 and private agencies to improve law enforcement and police
9 administration.

10 SECTION 2. Section 1701.160, Occupations Code, is amended
11 to read as follows:

12 Sec. 1701.160. AUTHORITY TO COMMISSION INVESTIGATORS AS
13 PEACE OFFICERS; POLICY REGARDING INVESTIGATIONS. (a) The
14 commission may commission certified peace officers as
15 investigators employed by the commission for the limited purpose of
16 assisting the commission in administering this chapter.

17 (b) The commission shall develop and implement policies
18 specifying the circumstances in which conduct by a license holder
19 is to be investigated by the staff of the commission for
20 disciplinary action under Subchapter K or investigated by peace
21 officers commissioned under this section.

22 SECTION 3. Subchapter D, Chapter 1701, Occupations Code, is
23 amended by adding Section 1701.165 to read as follows:

24 Sec. 1701.165. AUTHORITY TO ISSUE SUBPOENA. (a) The
25 commission may issue a subpoena as provided by this section.

26 (b) The commission may request and, if necessary, compel by
27 subpoena:

1 (1) the production for inspection and copying of
2 records, documents, and other evidence relevant to the
3 investigation of an alleged violation of this chapter or a
4 commission rule, including any document prepared or maintained by a
5 law enforcement agency in connection with disciplinary action taken
6 by the agency against a license holder; and

7 (2) the attendance of a witness for examination under
8 oath.

9 (c) A subpoena under this section may be issued throughout
10 this state and may be served by any person designated by the
11 commission.

12 (d) The commission, acting through the attorney general,
13 may bring an action to enforce a subpoena issued under this section
14 against a person who fails to comply with the subpoena.

15 (e) Venue for an action brought under this section is in a
16 district court in:

17 (1) Travis County; or

18 (2) any county in which the commission may hold a
19 hearing.

20 (f) The court shall order compliance with the subpoena if
21 the court finds that good cause exists to issue the subpoena.

22 SECTION 4. Section 1701.4521(a), Occupations Code, is
23 amended to read as follows:

24 (a) The commission shall suspend the license of an officer
25 licensed under this chapter on notification that the officer has
26 been dishonorably discharged if:

27 (1) the discharge was in relation to allegations of

1 criminal misconduct by the officer; or

2 (2) the officer has previously been dishonorably
3 discharged from another law enforcement agency.

4 SECTION 5. Section 1701.501(a), Occupations Code, is
5 amended to read as follows:

6 (a) Except as provided by Subsection (d), the commission
7 shall revoke or suspend a license, place on probation a person whose
8 license has been suspended, or reprimand a license holder if the
9 license holder has:

10 (1) engaged in any improper or unlawful acts in
11 connection with employment as an officer that could result in a
12 miscarriage of justice or discrimination, including:

13 (A) being convicted of, placed on deferred
14 adjudication for, or entering a plea of guilty or nolo contendere to
15 a felony or a misdemeanor involving moral turpitude;

16 (B) falsifying a police report or evidence in a
17 criminal investigation;

18 (C) destroying evidence in a criminal
19 investigation;

20 (D) using excessive force on multiple occasions;

21 (E) accepting a bribe;

22 (F) engaging in fraud;

23 (G) unlawfully using a controlled substance;

24 (H) engaging in an act for which the officer is
25 liable under 42 U.S.C. Section 1983;

26 (I) committing perjury; or

27 (J) making a misrepresentation for the purpose of

1 obtaining or renewing a license, including falsifying any
2 educational requirements under this chapter; or

3 (2) violated [~~for a violation of~~]:

4 (A) [~~(1)~~] this chapter;

5 (B) [~~(2)~~] the reporting requirements provided by
6 Articles 2.132 and 2.134, Code of Criminal Procedure; or

7 (C) [~~(3)~~] a commission rule.

8 SECTION 6. Subchapter K, Chapter 1701, Occupations Code, is
9 amended by adding Sections 1701.5011 and 1701.508 to read as
10 follows:

11 Sec. 1701.5011. EMERGENCY SUSPENSION. (a) The commission
12 shall temporarily suspend the license of a person if the commission
13 determines from the evidence or information presented to it that
14 continued practice by the person would constitute a continuing and
15 imminent threat to the public welfare.

16 (b) A license may be suspended under this section without
17 notice or hearing on the complaint if:

18 (1) action is taken to initiate proceedings for a
19 hearing before the State Office of Administrative Hearings
20 simultaneously with the temporary suspension; and

21 (2) a hearing is held as soon as practicable under this
22 chapter and Chapter 2001, Government Code.

23 (c) The State Office of Administrative Hearings shall hold a
24 preliminary hearing not later than the 10th day after the date of
25 the temporary suspension to determine if there is probable cause to
26 believe that a continuing and imminent threat to the public welfare
27 still exists. A final hearing on the matter shall be held not later

1 than the 61st day after the date of the temporary suspension.

2 Sec. 1701.508. SANCTIONS SCHEDULE. The commission by rule
3 shall adopt a sanctions schedule that lists:

4 (1) the most common violations that occur under this
5 chapter;

6 (2) the types of sanctions, including administrative
7 penalties, that may be imposed for those violations; and

8 (3) the factors used to determine the sanction that
9 may be imposed for each violation, including:

10 (A) the seriousness of the violation;

11 (B) any previous violation by the license holder;

12 and

13 (C) any other factor the commission considers
14 appropriate.

15 SECTION 7. Section 1701.457, Occupations Code, is repealed.

16 SECTION 8. Section 1701.501(a), Occupations Code, as
17 amended by this Act, applies only to conduct that occurs on or after
18 the effective date of this Act. Conduct that occurs before the
19 effective date of this Act is governed by the law in effect on the
20 date the conduct occurred, and the former law is continued in effect
21 for that purpose.

22 SECTION 9. Not later than December 1, 2021, the Texas
23 Commission on Law Enforcement shall adopt rules necessary to
24 implement the changes in law made by this Act.

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