

By: Paxton, et al.

S.B. No. 711

A BILL TO BE ENTITLED

1 AN ACT
2 relating to the continuation and functions of the Texas Commission
3 on Law Enforcement.

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

5 SECTION 1. Section 1701.002, Occupations Code, is amended
6 to read as follows:

7 Sec. 1701.002. APPLICATION OF SUNSET ACT. The Texas
8 Commission on Law Enforcement is subject to Chapter 325, Government
9 Code (Texas Sunset Act). Unless continued in existence as provided
10 by that chapter, the commission is abolished and this chapter
11 expires September 1, 2023 [~~2021~~].

12 SECTION 2. Section 1701.059, Occupations Code, is amended
13 by amending Subsection (b) and adding Subsection (d) to read as
14 follows:

15 (b) The training program must provide the person with
16 information regarding:

17 (1) the law governing [~~legislation that created the~~]
18 commission operations;

19 (2) the programs, functions, rules, and budget of the
20 commission;

21 (3) the scope of and limitations on the rulemaking
22 authority of the commission;

23 (4) the results of the most recent formal audit of the
24 commission;

1 (5) [~~(4)~~] the requirements of:

2 (A) laws relating to open meetings, public
3 information, administrative procedure, and disclosing conflicts of
4 interest; and

5 (B) other laws applicable to members of a state
6 policy-making body in performing their duties; and

7 (6) [~~(5)~~] any applicable ethics policies adopted by
8 the commission or the Texas Ethics Commission.

9 (d) The executive director of the commission shall create a
10 training manual that includes the information required by
11 Subsection (b). The executive director shall distribute a copy of
12 the training manual annually to each member of the commission. Each
13 commission member shall sign and submit to the executive director a
14 statement acknowledging that the member received and has reviewed
15 the training manual.

16 SECTION 3. Section 1701.151, Occupations Code, is amended
17 to read as follows:

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

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

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

27 (3) report to the governor and legislature on the

1 commission's activities, with recommendations on matters under the
2 commission's jurisdiction, and make other reports that the
3 commission considers desirable;

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

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

10 (A) cooperation with municipal, county, special
11 district, state, and federal law enforcement agencies in training
12 programs; and

13 (B) performance of the commission's other
14 functions; and

15 (6) conduct research and stimulate research by public
16 and private agencies to improve law enforcement and police
17 administration.

18 SECTION 4. Subchapter D, Chapter 1701, Occupations Code, is
19 amended by adding Sections 1701.165, 1701.166, and 1701.167 to read
20 as follows:

21 Sec. 1701.165. ADVISORY COMMITTEES. (a) The commission
22 may appoint advisory committees to perform advisory functions as
23 determined by the commission.

24 (b) A member of an advisory committee who is not a member of
25 the commission may not receive compensation for service on the
26 committee. The member may receive reimbursement for actual and
27 necessary expenses incurred in performing committee functions as

1 provided by Section 2110.004, Government Code.

2 (c) A member of an advisory committee serves at the will of
3 the commission.

4 Sec. 1701.166. SUBPOENA. (a) The commission may request
5 and, if necessary, compel by subpoena the production for inspection
6 or copying of records, documents, and other evidence relevant to
7 the investigation of an alleged violation of this chapter or a
8 commission rule, other than a document described by Section
9 1701.457.

10 (b) The commission, acting through the attorney general,
11 may bring an action to enforce a subpoena issued under Subsection
12 (a) against a person who fails to comply with the subpoena.

13 (c) Venue for an action brought under Subsection (b) is in a
14 district court in:

15 (1) Travis County; or

16 (2) any county in which the commission may conduct a
17 hearing.

18 (d) The court shall order compliance with the subpoena if
19 the court finds that good cause exists to issue the subpoena.

20 Sec. 1701.167. EXAMINATION OF LICENSE HOLDER. (a) The
21 commission shall adopt rules specifying the circumstances under
22 which the commission may request that a license holder submit to an
23 examination described by Section 1701.306 by a psychologist,
24 psychiatrist, or physician selected by the commission to determine
25 whether the license holder continues to meet the standards required
26 by that section.

27 (b) If the license holder refuses to submit to the

1 examination, the commission shall issue an order requiring the
2 person to show cause for the person's refusal at a hearing on the
3 order scheduled for not later than the 30th day after the date
4 notice is served on the person. The commission shall provide notice
5 under this section by personal service or by registered mail,
6 return receipt requested.

7 (c) At the hearing, the person may appear in person and by
8 counsel and present evidence to justify the person's refusal to
9 submit to examination. After the hearing, the commission shall
10 issue an order requiring the person to submit to an examination
11 under this section or withdrawing the request for the examination.

12 (d) Unless the request is withdrawn, the commission may
13 suspend the license of a person who refuses to submit to the
14 examination.

15 (e) An appeal from the commission's order under this section
16 is governed by Chapter 2001, Government Code.

17 (f) If the results of an examination under this section show
18 that the person does not meet the standards of Section 1701.306(a),
19 the commission shall suspend the person's license.

20 (g) Records relating to a request or order of the commission
21 or a hearing or examination conducted under this section,
22 including, if applicable, the identity of the person notifying the
23 commission that a license holder may not meet the standards
24 required by Section 1701.306(a), are confidential and not subject
25 to disclosure under Chapter 552, Government Code.

26 SECTION 5. Section 1701.202, Occupations Code, is amended
27 by amending Subsection (b) and adding Subsection (d) to read as

1 follows:

2 (b) Except as provided by Subsection (d), on [On] request, a
3 license holder is entitled to [may] obtain information regarding a
4 complaint made against the license holder under this chapter,
5 including a complete copy of the complaint file. On receipt of a
6 request under this subsection, the commission shall provide the
7 requested information in a timely manner to allow the license
8 holder time to respond to the complaint.

9 (d) The commission is not required to provide the identity
10 of any nontestifying complainant in response to a request under
11 Subsection (b).

12 SECTION 6. Sections 1701.203(a) and (c), Occupations Code,
13 are amended to read as follows:

14 (a) The commission shall maintain a system to promptly and
15 efficiently act on [~~jurisdictional~~] complaints filed with the
16 commission. The commission shall maintain information about
17 parties to the complaint, the subject matter of the complaint, a
18 summary of the results of the review or investigation of the
19 complaint, and its disposition.

20 (c) The commission shall periodically notify the complaint
21 parties [~~to the complaint~~] of the status of the complaint until
22 final disposition unless the notice would jeopardize an
23 investigation.

24 SECTION 7. Sections 1701.303(b) and (c), Occupations Code,
25 are amended to read as follows:

26 (b) A person who appoints an officer or county jailer
27 licensed by the commission shall notify the commission not later

1 than the 30th day after the date of the appointment. If the person
2 appoints an individual who previously served as an officer or
3 county jailer and the appointment occurs after the 180th day after
4 the last date of service as an officer or county jailer, the person
5 must have on file for the officer or county jailer, in a form
6 readily accessible to the commission, [+

7 [~~(1) new criminal history record information,~~

8 [~~(2)~~] a new declaration of psychological and emotional
9 health and lack of drug dependency or illegal drug use [~~, and~~

10 [~~(3) two completed fingerprint cards~~].

11 (c) A person who appoints or employs a telecommunicator
12 licensed by the commission shall notify the commission not later
13 than the 30th day after the date of the appointment or employment.
14 [~~If the person appoints or employs an individual who previously~~
15 ~~served as a telecommunicator and the appointment or employment~~
16 ~~occurs after the 180th day after the last date of service as a~~
17 ~~telecommunicator, the person must have on file in a form readily~~
18 ~~accessible to the commission.~~

19 [~~(1) new criminal history record information, and~~

20 [~~(2) two completed fingerprint cards.~~]

21 SECTION 8. Subchapter G, Chapter 1701, Occupations Code, is
22 amended by adding Section 1701.3065 to read as follows:

23 Sec. 1701.3065. CRIMINAL HISTORY RECORD INFORMATION FOR
24 LICENSE ISSUANCE. (a) The commission shall require that an
25 applicant for a license submit a complete and legible set of
26 fingerprints, on a form prescribed by the commission, to the
27 commission or to the Department of Public Safety for the purpose of

1 obtaining criminal history record information from the Department
2 of Public Safety and the Federal Bureau of Investigation.

3 (b) The commission may not issue a license to a person who
4 does not comply with the requirement of Subsection (a).

5 (c) The commission shall conduct a criminal history record
6 information check of each applicant for a license using
7 information:

8 (1) provided by the individual under this section; and

9 (2) made available by the Department of Public Safety,
10 the Federal Bureau of Investigation, and any other criminal justice
11 agency under Chapter 411, Government Code.

12 (d) The commission may:

13 (1) enter into an agreement with the Department of
14 Public Safety to administer a criminal history record information
15 check required under this section; and

16 (2) authorize the Department of Public Safety to
17 collect from each applicant the costs incurred by the Department of
18 Public Safety in conducting the criminal history record information
19 check.

20 SECTION 9. Section 1701.404(b), Occupations Code, is
21 amended to read as follows:

22 (b) The commission may certify a sheriff, sheriff's deputy,
23 constable, other peace officer, county jailer, or justice of the
24 peace as a special officer for offenders with mental impairments if
25 the person:

26 (1) completes a training course in emergency first aid
27 and lifesaving techniques approved by the commission;

1 (2) completes a training course administered by the
2 commission on mental health issues and offenders with mental
3 impairments; and

4 (3) passes an examination administered by the
5 commission that is designed to test the person's:

6 (A) knowledge and recognition of the
7 characteristics and symptoms of mental illness, intellectual
8 disabilities [~~mental retardation~~], and developmental [~~mental~~]
9 disabilities; and

10 (B) knowledge of mental health crisis
11 intervention strategies for people with mental impairments.

12 SECTION 10. The heading to Subchapter K, Chapter 1701,
13 Occupations Code, is amended to read as follows:

14 SUBCHAPTER K. DISCIPLINARY GROUNDS AND PROCEDURES

15 SECTION 11. Subchapter K, Chapter 1701, Occupations Code,
16 is amended by adding Section 1701.5011 to read as follows:

17 Sec. 1701.5011. EMERGENCY SUSPENSION. (a) The commission
18 shall adopt rules specifying the circumstances under which the
19 commission may issue an emergency order, without a hearing,
20 suspending a person's license for a period not to exceed 90 days
21 after determining that the person constitutes an imminent threat to
22 the public health, safety, or welfare.

23 (b) An order suspending a license under this section must
24 state the length of the suspension in the order.

25 (c) If an emergency order is issued without a hearing under
26 this section, the commission shall set the time and place for a
27 hearing to be conducted not later than the 10th day after the date

1 the order was issued. A hearing under this section to affirm,
2 modify, or set aside the emergency order shall be conducted by the
3 State Office of Administrative Hearings. The order shall be
4 affirmed to the extent that good cause existed to issue the order.

5 (d) The commission by rule may prescribe procedures for the
6 determination and appeal of an emergency order issued under this
7 section, including a rule allowing the commission to affirm,
8 modify, or set aside a decision made by the State Office of
9 Administrative Hearings under Subsection (c).

10 (e) A proceeding under this section is a contested case
11 under Chapter 2001, Government Code.

12 SECTION 12. Chapter 1701, Occupations Code, is amended by
13 adding Subchapter P to read as follows:

14 SUBCHAPTER P. PANEL TO REVIEW LAW ENFORCEMENT REGULATION

15 Sec. 1701.721. DEFINITION. In this subchapter, "panel"
16 means the panel established under Section 1701.722.

17 Sec. 1701.722. PANEL ESTABLISHED; COMPOSITION. (a) A
18 panel to study the regulation of persons licensed under this
19 chapter and the entities authorized by law to employ those persons
20 is established. The panel consists of the following 17 members:

21 (1) nine members who are knowledgeable on criminal
22 justice matters, including law enforcement personnel,
23 representatives of victims' rights groups, educators, judges, and
24 local elected officials, appointed as follows:

25 (A) three members appointed by the governor;

26 (B) three members appointed by the lieutenant
27 governor; and

1 (C) three members appointed by the speaker of the
2 house of representatives;

3 (2) three members who represent the public, one
4 appointed by the governor, one appointed by the lieutenant
5 governor, and one appointed by the speaker of the house of
6 representatives;

7 (3) the chair of the Senate Committee on Criminal
8 Justice;

9 (4) the chair of the House Committee on Homeland
10 Security and Public Safety;

11 (5) the chair of the board of the Texas District and
12 County Attorneys Association or the chair's designee; and

13 (6) as nonvoting members:

14 (A) the executive director of the commission; and

15 (B) the attorney general or the attorney
16 general's designee.

17 (b) In appointing members of the panel under Subsection
18 (a)(1), the governor, lieutenant governor, and speaker of the house
19 of representatives shall each appoint:

20 (1) one representative of a rural county or a small
21 municipality; and

22 (2) one representative of a law enforcement agency.

23 (c) The governor shall designate a chair and vice chair of
24 the panel. The panel shall meet at the call of the chair.

25 Sec. 1701.723. ADVISORY COMMITTEES. The panel may
26 establish one or more advisory committees to assist the panel in its
27 duties under this subchapter. Advisory committee members may

1 include any person with knowledge or experience relevant to the
2 study conducted under Section 1701.729.

3 Sec. 1701.724. OPEN MEETINGS; PUBLIC HEARINGS. (a) The
4 panel, and any advisory committee established by the panel, is
5 subject to Chapter 551, Government Code.

6 (b) Notwithstanding Chapter 551, Government Code, or any
7 other law, the panel and any advisory committee may meet by
8 telephone conference call, videoconference, or other similar
9 telecommunication method. A meeting held under this subsection by
10 telephone conference call, videoconference, or other similar
11 telecommunication method is subject to the requirements of Sections
12 551.125(c)-(f), Government Code.

13 (c) The panel shall hold a public hearing at least once
14 every month to solicit testimony and provide information to the
15 public regarding the work of the panel.

16 Sec. 1701.725. CONFIDENTIALITY OF CERTAIN DOCUMENTS.
17 Preliminary drafts of the final report and legislative
18 recommendations, memoranda of panel members expressing opinions,
19 formulations, or recommendations, and panel members' notes and
20 correspondence with individuals who are not panel members are
21 confidential and not subject to disclosure under Chapter 552,
22 Government Code.

23 Sec. 1701.726. SUBPOENA. (a) The panel may issue a
24 subpoena as provided by this section.

25 (b) The panel may request and, if necessary, compel by
26 subpoena:

27 (1) the production for inspection and copying of

1 documents and other records relevant to the panel's duties under
2 this subchapter; and

3 (2) the attendance of a witness for examination under
4 oath.

5 (c) A subpoena under this section may be issued throughout
6 this state and may be served by any person designated by the panel.

7 (d) The panel, acting through the attorney general, may
8 bring an action to enforce a subpoena issued under this section
9 against a person who fails to comply with the subpoena.

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

12 (1) Travis County; or

13 (2) any county in which the commission may conduct a
14 hearing.

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

17 Sec. 1701.727. REIMBURSEMENT. A member of the panel or an
18 advisory committee of the panel is not entitled to compensation for
19 service on the panel or on an advisory committee of the panel but
20 may be reimbursed for travel and other reasonable and necessary
21 expenses incurred in connection with the member's service on the
22 panel or advisory committee as provided by the General
23 Appropriations Act.

24 Sec. 1701.728. ASSISTANCE BY COMMISSION. The commission
25 shall provide facilities and administrative support as reasonably
26 necessary for the panel to carry out its duties.

27 Sec. 1701.729. STUDY. The panel shall study and make

1 recommendations regarding the regulation of persons licensed under
2 this chapter and entities authorized by law to employ those
3 persons. In conducting the study, the panel shall consider the
4 following:

5 (1) the standards of conduct applicable to persons
6 licensed under this chapter, including whether statewide standards
7 should be developed and who should develop, review, and update
8 those standards;

9 (2) the education and training requirements for
10 persons licensed under this chapter, including:

11 (A) the requirements for the issuance of each
12 type of license and the frequency with which those requirements are
13 reviewed and updated; and

14 (B) the continuing education requirements for
15 each type of license and the frequency with which those
16 requirements are reviewed and updated;

17 (3) the commission's regulation of training programs
18 and schools; and

19 (4) the accountability to the public of persons
20 licensed under this chapter and of entities authorized by law to
21 employ persons licensed under this chapter, including:

22 (A) the need for statewide standards applicable
23 to the entities and who should develop, review, and update those
24 standards;

25 (B) changes to the commission's authority to
26 discipline a license holder for violations of law or other
27 misconduct;

1 (C) appropriate procedures to protect a license
2 holder's rights during a disciplinary proceeding; and

3 (D) the reporting of terminations under
4 Subchapter J.

5 Sec. 1701.730. REPORT; CERTAIN VOTES REQUIRED. (a) Not
6 later than June 1, 2022, the panel shall deliver a report to the
7 governor, the lieutenant governor, the speaker of the house of
8 representatives, each member of the legislature, and the Sunset
9 Advisory Commission on the areas of study described by Section
10 1701.729, including any legislative recommendations adopted by the
11 panel.

12 (b) A legislative recommendation may be adopted by a
13 majority vote of a quorum of the panel.

14 (c) The report under this section may be issued only if the
15 report is adopted by a two-thirds vote of the total membership of
16 the panel.

17 Sec. 1701.731. EXPIRATION. The panel is abolished and this
18 subchapter expires December 31, 2022.

19 SECTION 13. (a) Except as provided by Subsection (b) of
20 this section, Section 1701.059, Occupations Code, as amended by
21 this Act, applies to a member of the Texas Commission on Law
22 Enforcement appointed before, on, or after the effective date of
23 this Act.

24 (b) A member of the Texas Commission on Law Enforcement who,
25 before the effective date of this Act, completed the training
26 program required by Section 1701.059, Occupations Code, as that law
27 existed before the effective date of this Act, is only required to

1 complete additional training on the subjects added by this Act to
2 the training program required by Section 1701.059, Occupations
3 Code. A commission member described by this subsection may not
4 vote, deliberate, or be counted as a member in attendance at a
5 meeting of the commission held on or after December 1, 2021, until
6 the member completes the additional training.

7 SECTION 14. (a) Notwithstanding Section 1701.317,
8 Occupations Code, not later than September 1, 2024, the Texas
9 Commission on Law Enforcement shall conduct a criminal history
10 record information check in the manner provided by Section
11 1701.3065, Occupations Code, as added by this Act, on each person
12 who on September 1, 2021, holds a license issued under Chapter 1701,
13 Occupations Code.

14 (b) The Texas Commission on Law Enforcement may suspend the
15 license of a person who holds a license under Chapter 1701,
16 Occupations Code, who does not comply with a request by the
17 commission to provide information or fingerprints, in a form and
18 manner prescribed by the commission, that would enable the
19 commission to conduct the criminal history record information check
20 as required by this section.

21 (c) The Texas Commission on Law Enforcement may adopt rules
22 to implement this section, including rules to stagger the
23 implementation of this section.

24 SECTION 15. Not later than September 1, 2021, the governor,
25 lieutenant governor, and speaker of the house of representatives
26 shall appoint members to the panel in accordance with Section
27 1701.722, Occupations Code, as added by this Act.

1 SECTION 16. (a) For purposes of Section 1701.002,
2 Occupations Code, as amended by this Act, the Sunset Advisory
3 Commission shall conduct a limited-scope review of the Texas
4 Commission on Law Enforcement for the 88th Legislature. The review
5 must provide:

6 (1) an update on the progress of the Texas Commission
7 on Law Enforcement in implementing the recommendations made by the
8 Sunset Advisory Commission to the 87th Legislature; and

9 (2) an evaluation of any legislative recommendations
10 related to the Texas Commission on Law Enforcement made by the panel
11 established under Subchapter P, Chapter 1701, Occupations Code, as
12 added by this Act.

13 (b) The Sunset Advisory Commission's recommendations to the
14 88th Legislature may include any recommendation the commission
15 considers appropriate based on the limited-scope review conducted
16 under this section.

17 SECTION 17. This Act takes effect September 1, 2021.