

BILL ANALYSIS

Senate Research Center

S.B. 1445
By: Paxton et al.
Criminal Justice
7/24/2023
Enrolled

AUTHOR'S / SPONSOR'S STATEMENT OF INTENT

Summary

The Sunset Advisory Commission reviewed the Texas Commission on Law Enforcement (TCOLE) during the 2020-2021 biennium, but its Sunset bill, H.B. 1550, did not pass during the 87th legislative session. Instead, the legislature continued TCOLE for an additional two years in S.B. 713 and directed the Sunset Commission to conduct a limited scope review of TCOLE in the 2022-23 biennium.

The Sunset Commission once again found that Texas' approach to law enforcement continues to lag behind the needs of the state. The commission recommended continuing TCOLE for 12 years and adopted several recommendations to improve the efficiency and effectiveness of law enforcement regulation in Texas, including aligning TCOLE's statutes and procedures with best practices. The commission recommends requiring TCOLE to set and enforce standards for law enforcement agencies. In addition, to improve law enforcement hiring and separation practices, the commission recommends requiring law enforcement agencies to check a national decertification database before hiring, as well as eliminating discharge categories from the F-5 separation form.

TCOLE is subject to abolishment under the Sunset Act on September 1, 2023, unless continued by the legislature.

Major Provisions in Introduced Version of Sunset Legislation

- Continue the Texas Commission on Law Enforcement for 12 years instead of two years.
- Amend statute to require TCOLE, with input from an advisory committee, to set and enforce minimum standards for law enforcement agencies (LEAs) in rule.
- Remove the separation categories of honorable, general, and dishonorable from the F-5 form.
- Require law enforcement agencies to conduct a review of a national law enforcement database prior to hiring and before a license is granted. In addition, authorize TCOLE to designate one or more databases for use by law enforcement agencies when conducting pre-employment background checks.
- Require TCOLE to create a public-facing, searchable database that identifies information about a peace officer's license status.
- Require TCOLE to establish and maintain a system for LEAs to report failed fit-for-duty exams or refusals to be examined and authorize TCOLE to suspend licensees under limited circumstances.
- Clearly authorize TCOLE to maintain confidentiality of complainants when possible.
- Clearly define TCOLE's limited authority to issue administrative subpoenas.

- Explicitly authorize TCOLE to temporarily suspend a license in cases of imminent threat to public health, safety, or welfare, and require a timeline for due process hearings.
- Authorize TCOLE to establish advisory committees to make recommendations on programs, rules, and policies administered by it.

(Original Author's/Sponsor's Statement of Intent)

S.B. 1445 amends current law relating to the continuation and functions of the Texas Commission on Law Enforcement and authorizes a fee.

RULEMAKING AUTHORITY

Rulemaking authority previously granted to the Texas Commission on Law Enforcement is modified in SECTION 4 (Section 1701.151, Occupations Code), of this bill.

Rulemaking authority is expressly granted to the Texas Commission on Law Enforcement in SECTIONS 5 (Section 1701.163, Occupations Code), 6 (Section 1701.165, Occupations Code), 9 (Section 1701.205, Occupations Code), 10 (Section 1701.253, Occupations Code), 21 (Section 1701.5011, Occupations Code), and 24 of this bill.

Rulemaking authority previously granted to the Texas Commission on Law Enforcement is rescinded in SECTION 22 (Sections 1701.452 and 1701.4525, Occupations Code) of this bill.

SECTION BY SECTION ANALYSIS

SECTION 1. Amends Section 1701.001, Occupations Code, by adding Subdivision (2-a) to define "misconduct."

SECTION 2. Amends Section 1701.002, Occupations Code, as follows:

Sec. 1701.002. APPLICATION OF SUNSET ACT. Provides that the Texas Commission on Law Enforcement (TCOLE) is subject to Chapter 325 (Sunset Law), Government Code. Provides that TCOLE, unless continued in existence as provided by that chapter, is abolished and Chapter 1701 (Law Enforcement Officers) expires September 1, 2031, rather than September 1, 2023.

SECTION 3. Amends Section 1701.059, Occupations Code, by amending Subsection (b) and adding Subsection (d), as follows:

(b) Requires that the training program provide the person with information regarding:

- (1) the law governing TCOLE operations, rather than legislation that created TCOLE;
- (2) makes no changes to this subdivision;
- (3) the scope of and limitations on the rulemaking authority of TCOLE;
- (4) makes a nonsubstantive change to this subdivision;
- (5) the requirements of:
 - (A) laws relating to open meetings, public information, administrative procedure, and disclosing conflicts of interest; and
 - (B) other laws applicable to members of a state policy-making body in performing their duties; and

(6) makes a nonsubstantive change to this subdivision.

(d) Requires the executive director of TCOLE (executive director) to create a training manual that includes the information required by Subsection (b). Requires the executive director to distribute a copy of the training manual annually to each member of TCOLE. Requires each TCOLE member to sign and submit to the executive director a statement acknowledging that the member received and has reviewed the training manual.

SECTION 4. Amends Section 1701.151, Occupations Code, as follows:

Sec. 1701.151. GENERAL POWERS OF COMMISSION; RULEMAKING AUTHORITY. Authorizes TCOLE to:

- (1) makes no changes to this subdivision;
- (2) establish minimum standards relating to competence and reliability, including education, training, physical, and mental, rather than mental and moral, standards, for licensing as an officer, county jailer, public security officer, or telecommunicator; and
- (3)-(6) makes no changes to these subdivisions.

SECTION 5. Amends Section 1701.163, Occupations Code, as follows:

Sec. 1701.163. New heading: MINIMUM STANDARDS FOR LAW ENFORCEMENT AGENCIES. Requires TCOLE, with input from an advisory committee, to establish by rule minimum standards with respect to the creation or continued operation of a law enforcement agency based on the function, size, and jurisdiction of the agency, including:

- (1) a determination regarding the public benefit of creating the agency in the community;
- (2) the sustainable funding sources for the agency;
- (3) the physical resources available to officers, including:
 - (A) all standard duty firearms;
 - (B) less lethal force weapons, including a requirement of at least one per officer on duty;
 - (C) effective communications equipment;
 - (D) protective equipment, including a requirement of at least one bullet-resistant vest per officer on duty;
 - (E) officer uniforms; and
 - (F) patrol vehicles and associated equipment;
- (4) the physical facilities of the agency, including any evidence room, dispatch area, or public area;
- (5) the policies of the agency, including policies on:
 - (A)-(E) makes no changes to these paragraphs;
 - (F)-(G) makes nonsubstantive changes to these paragraphs;
 - (H) active shooters; and

(I) barricaded subjects;

(6) the administrative structure of the agency;

(7) makes no changes to this subdivision; and

(8) any other standard TCOLE considers necessary.

Deletes existing text providing that this section applies only to an entity authorized by statute or by the constitution to create a law enforcement agency or police department and commission, appoint, or employ officers that first creates a law enforcement agency or police department and first begins to commission, appoint, or employ officers on or after September 1, 2009. Deletes existing text requiring the entity to submit to TCOLE on creation of the law enforcement agency or police department information regarding the need for the law enforcement agency or police department in the community; the funding sources for the law enforcement agency or police department; the physical facilities that the law enforcement agency or police department will operate, including descriptions of the evidence room, dispatch area, and public area; certain law enforcement policies of the law enforcement agency or police department; the administrative structure of the law enforcement agency or police department; and any other information TCOLE requires by rule.

SECTION 6. Amends Subchapter D, Chapter 1701, Occupations Code, by adding Sections 1701.165, 1701.166, 1701.167, 1701.168, 1701.169, and 1701.170, as follows:

Sec. 1701.165. ADVISORY COMMITTEES. (a) Authorizes TCOLE by rule to establish advisory committees to make recommendations to TCOLE on programs, rules, and policies administered by TCOLE.

(b) Requires TCOLE, in establishing an advisory committee under this section, to adopt rules, including rules regarding:

(1) the purpose, role, responsibility, goals, and duration of the committee;

(2) the size of and quorum requirement for the committee;

(3) qualifications for committee membership;

(4) appointment procedures for members;

(5) terms of service for members;

(6) training requirements for members;

(7) policies to avoid conflicts of interest by committee members;

(8) a periodic review process to evaluate the continuing need for the committee; and

(9) policies to ensure the committee does not violate any provision of Chapter 551 (Open Meetings), Government Code, applicable to TCOLE or the committee.

Sec. 1701.166. SUBPOENA. (a) Authorizes TCOLE to compel by subpoena the production for inspection or copying of a record described by Section 1701.162(a) (relating to entitling TCOLE to access records under certain sections) that is relevant to the investigation of an alleged violation of this chapter or a TCOLE rule.

(b) Authorizes TCOLE, acting through the attorney general, to bring an action to enforce a subpoena issued under Subsection (a) against a person who fails to comply with the subpoena.

(c) Provides that venue for an action brought under Subsection (b) is in a district court in Travis County or any county in which TCOLE is authorized to conduct a hearing.

(d) Requires the court to order compliance with the subpoena if the court finds that good cause exists to issue the subpoena.

Sec. 1701.167. POLICY REGARDING EXAMINATION OF LICENSE HOLDER OR APPLICANT. (a) Requires TCOLE, with input from an advisory committee, to adopt a model policy prescribing standards and procedures for the medical and psychological examination of a license holder or person for whom a license is sought by a law enforcement agency to ensure the license holder or person is able to perform the duties for which the license is required. Requires that the model policy:

(1) apply to examinations of:

(A) a person to whom Section 1701.306 (Psychological and Physical Examination) applies;

(B) a person licensed as an officer or county jailer who is appointed as an officer or county jailer after the 180th day after the person's last date of service as an officer or county jailer;

(C) school marshals, as described by Section 1701.260 (Training for Holders of License to Carry a Handgun; Certification of Eligibility for Appointment as School Marshal); and

(D) a license holder, if ordered by the law enforcement agency employing the license holder for just cause;

(2) require, for an examination described by Subdivision (1)(D), that the employing agency:

(A) provide to the license holder written notice of the examination that includes the reasons for the examination not later than the 10th business day before the deadline to submit to the examination; and

(B) report to TCOLE, in the manner prescribed by TCOLE, the refusal of the license holder to submit to the examination within the period provided by Paragraph (A); and

(3) require the reporting to TCOLE, in the manner prescribed by TCOLE, of a license holder's failed examination, unless the license holder submits to and successfully completes an applicable treatment program within a reasonable time, as prescribed by TCOLE.

(b) Requires each law enforcement agency in this state to adopt the model policy described by Subsection (a) or a substantively similar policy. Requires that a policy adopted by a law enforcement agency under this section be submitted to TCOLE, and requires TCOLE to maintain a copy of the policy.

(c) Provides that the providing of notice by a law enforcement agency to TCOLE of a license holder's refusal to submit to an examination does not preclude the agency employing the license holder from taking disciplinary action against the license holder, including termination of the license holder's employment with the agency.

(d) Requires TCOLE to issue an order requiring a license holder who refuses to submit to an examination required by a policy adopted under Subsection (b) to show cause for the license holder's refusal at a hearing on the order scheduled for not later than the 30th day after the date notice is served on the license holder. Requires TCOLE to provide notice under this section by personal service or by registered mail, return receipt requested.

(e) Authorizes the license holder, at the hearing, to appear in person and by counsel and present evidence to justify the license holder's refusal to submit to examination. Requires TCOLE, after the hearing, to issue an order requiring the license holder to submit to an examination under this section or withdrawing the request for the examination.

(f) Authorizes TCOLE, unless the request is withdrawn, to suspend or otherwise restrict the license of a license holder who refuses to submit to the examination.

(g) Provides that an appeal from TCOLE's order under this section is governed by Chapter 2001 (Administrative Procedure), Government Code.

(h) Requires TCOLE, if the results of an examination under this section show that the license holder does not meet the standards of the policy adopted under Subsection (b), to suspend the license holder's license.

(i) Provides that records relating to a request or order of TCOLE or a hearing or examination conducted under this section, including, if applicable, the identity of the person notifying TCOLE that a license holder may not meet the standards of the policy adopted under Subsection (b), are confidential and not subject to disclosure under Chapter 552 (Public Information), Government Code.

(j) Provides that an order issued by TCOLE regarding a license holder that is based on information obtained during an examination under this section is authorized to only reference the statutory basis for the order and is prohibited from disclosing the reason for the examination.

Sec. 1701.168. LICENSING STATUS DATABASE. (a) Requires TCOLE to establish a database containing, for each officer licensed under this chapter:

(1) the officer's license status, including a record of any action taken against the officer by TCOLE; and

(2) personnel files, as described by Section 1701.4535, provided by each law enforcement agency that employs the officer.

(b) Requires TCOLE to make available to a law enforcement agency on request any relevant information maintained in the database for purposes of Sections 1701.303 (License Application; Duties of Appointing Entity) and 1701.451(a) (relating to certain required preemployment procedures by a law enforcement agency and to the request of certain information from TCOLE).

(c) Requires TCOLE, on request of an officer, to provide to the officer free of charge any information maintained in the database regarding the officer, including any information relating to an investigation of misconduct by a law enforcement agency under the policy described by Section 1701.4522.

(d) Provides that information maintained in the database established under this section is confidential and not subject to disclosure under Chapter 552, Government Code, except as provided by Subsections (b) and (c).

Sec. 1701.169. LAW ENFORCEMENT DATABASE. Requires TCOLE to designate one or more national law enforcement databases that a law enforcement agency is required to access to complete the preemployment background check required under Sections 1701.303(a), 1701.3035, and 1701.451(a). Requires that a database designated under this section be as comprehensive as possible.

Sec. 1701.170. SUBMISSION OF REVOKED LICENSE TO NATIONAL DATABASE. (a) Requires TCOLE to designate for purposes of this section a national database that serves as a registry for the revocation of officer licenses in several jurisdictions based on misconduct committed by the officer.

(b) Requires TCOLE to submit to the designated database information necessary to create a record in the database for each officer license TCOLE revokes under Section 1701.501 (Disciplinary Action), 1701.502 (Felony Conviction or Placement on Community Supervision), or 1701.503 (Barratry Conviction).

SECTION 7. Amends Section 1701.202, Occupations Code, by amending Subsection (b) and adding Subsection (d), as follows:

(b) Entitles, rather than authorizes, a license holder, on request, except as provided by Subsection (d), to obtain information regarding a complaint made against the license holder under this chapter, including a complete copy of the complaint file. Makes a nonsubstantive change.

(d) Provides that TCOLE is not required to provide the identity of any nontestifying complainant in response to a request under Subsection (b).

SECTION 8. Amends Section 1701.203(c), Occupations Code, to require TCOLE to periodically notify the complaint parties, rather than parties to the complaint, of the status of the complaint until final disposition unless the notice would jeopardize an investigation.

SECTION 9. Amends Subchapter E, Chapter 1701, Occupations Code, by adding Section 1701.205, as follows:

Sec. 1701.205. OFFICER PERSONAL SERVICE REPORTS. (a) Requires TCOLE to establish a public database containing personal service reports of each officer licensed under this chapter. Requires that a service report:

- (1) include the information required by Subsection (b); and
- (2) be compiled in a format that makes the information readily available to the public.

(b) Requires that a service report, except as otherwise provided by this section, contain the following information with respect to each officer:

- (1) the date the officer completed the basic training course;
- (2) whether the officer is in compliance with continuing education requirements and the continuing education courses completed;
- (3) the total hours of training the officer has completed; and
- (4) the date the officer's license was issued.

(c) Requires TCOLE to adopt rules to exclude from the database personal service reports for certain officers if including the service report would create a safety risk for an undercover officer or an officer involved in an active sensitive operation. Requires that rules adopted under this section allow an officer described by this subsection or the law enforcement agency employing the officer

to request, in a manner prescribed by TCOLE, the service report of the officer to be excluded from the database. Provides that a request to exclude an officer's personal service report under this section is confidential and not subject to disclosure under Chapter 552, Government Code.

(d) Requires TCOLE to:

(1) require a person accessing information in the database to register as a user before accessing the database; and

(2) track each user's activity on the database, including the personal service reports the user accesses.

(e) Provides that the user information collected and maintained by TCOLE under Subsection (d) is confidential and not subject to disclosure under Chapter 552, Government Code, except as required to comply with a court order.

SECTION 10. Amends Section 1701.253, Occupations Code, by adding Subsection (a-1) and amending Subsections (g), (h), (i), (j), (l), (m), (o), and (p), as follows:

(a-1) Requires TCOLE by rule to establish deadlines for an officer to complete any minimum curriculum requirements that are not completed as part of the officer's basic training course.

(g) Deletes existing text requiring an officer to complete a program established under this subsection not later than the second anniversary of the date the officer is licensed under this chapter or the date the officer applies for an intermediate proficiency certificate, whichever date is earlier.

(h) Deletes existing text requiring an officer to complete a program established under this subsection not later than the second anniversary of the date the officer is licensed under this chapter or the date the officer applies for an intermediate proficiency certificate, whichever date is earlier.

(i) Deletes existing text requiring an officer to complete a program established under this subsection not later than the second anniversary of the date the officer is licensed under this chapter or the date the officer applies for an intermediate proficiency certificate, whichever date is earlier.

(j) Deletes existing text requiring an officer to complete the program not later than the second anniversary of the date the officer is licensed under this chapter or the date the officer applies for an intermediate proficiency certificate, whichever date is earlier.

(l) Deletes existing text requiring an officer to complete the program not later than the second anniversary of the date the officer is licensed under this chapter unless the officer completes the program as part of the officer's basic training course.

(m) Deletes existing text requiring an officer to complete a program established under this subsection not later than the second anniversary of the date the officer is licensed under this chapter or the date the officer applies for an intermediate proficiency certificate, whichever date is earlier.

(o) Deletes existing text requiring an officer to complete the program not later than the second anniversary of the date the officer is licensed under this chapter unless the officer completes the program as part of the officer's basic training course.

(p) Deletes existing text requiring an officer to complete the program not later than the second anniversary of the date the officer is licensed under this chapter unless the officer completes the program as part of the officer's basic training course.

SECTION 11. Amends Section 1701.303, Occupations Code, as follows:

Sec. 1701.303. LICENSE APPLICATION; DUTIES OF APPOINTING ENTITY. (a) Requires a law enforcement agency or governmental entity, before the agency or entity hires a person for whom a license is sought, to:

(1) review any information relating to the person available:

(A) in a database established under Section 1701.168;

(B) in a database designated under Section 1701.169; and

(C) if applicable, in a file provided to TCOLE under Section 1701.3035; and

(2) creates this subdivision from existing text.

Makes nonsubstantive changes.

(b) Requires a person, if the person appoints an individual who previously served as an officer or county jailer and the appointment occurs after the 180th day after the last date of service as an officer or county jailer, to have on file for the license holder, rather than the officer or county jailer, in a form readily accessible to TCOLE, certain information, including new documentation that the license holder has been fingerprinted and subjected to a search of local, state, and national records and fingerprint files to disclose any criminal record of the license holder, rather than two completed fingerprint cards.

(c) Requires a person, if the person appoints or employs an individual who previously served as a telecommunicator and the appointment or employment occurs after the 180th day after the last date of service as a telecommunicator, to have on file in a form readily accessible to TCOLE certain information, including new documentation that the license holder has been fingerprinted and subjected to a search of local, state, and national records and fingerprint files to disclose any criminal record of the license holder, rather than two completed fingerprint cards.

SECTION 12. Amends Subchapter G, Chapter 1701, Occupations Code, by adding Sections 1701.3035 and 1701.3135, as follows:

Sec. 1701.3035. OUT-OF-STATE LICENSE HOLDERS. (a) Requires TCOLE, before issuing an officer license under this chapter to an applicant who holds or previously held an equivalent license in another state, to request from the licensing authority of the other state the personnel file and any other relevant record regarding the applicant.

(b) Prohibits an applicant for an officer license from being denied a license for the sole reason that the licensing authority of another state did not provide a record requested by TCOLE under this section.

Sec. 1701.3135. DISQUALIFICATION: REVOCATION OR SUSPENSION IN ANOTHER STATE. Provides that a person is disqualified to be an officer, and TCOLE is prohibited from issuing an officer license to the person, if the person has been issued a license or other authorization to act as an officer in another state and, at the time the person applies for a license in this state, that license or authorization is revoked or suspended for a reason that would be grounds for TCOLE to revoke or suspend a license in this state.

SECTION 13. Amends Section 1701.404(b), Occupations Code, as follows:

(b) Authorizes TCOLE to certify a sheriff, sheriff's deputy, constable, other peace officer, county jailer, or justice of the peace as a special officer for offenders with mental impairments if the person:

(1)-(2) makes no changes to these subdivisions; and

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

(A) knowledge and recognition of the characteristics and symptoms of mental illness, intellectual disabilities, rather than mental retardation, and developmental disabilities, rather than mental disabilities; and

(B) makes no changes to this paragraph.

SECTION 14. Amends Section 1701.451(a), Occupations Code, as follows:

(a) Requires a law enforcement agency, before a law enforcement agency is authorized to hire a person licensed under this chapter, on a form and in the manner prescribed by TCOLE to:

(1)-(2) makes no changes to these subdivisions; and

(3) submit to TCOLE confirmation that the agency, to the best of the agency's ability before hiring the person:

(A) makes no changes to this paragraph; and

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

(i) personnel files, as described by Section 1701.4535, and other employee records from each previous law enforcement agency employer, including the employment application submitted to the previous employer;

(ii) employment termination reports and misconduct investigation reports maintained by TCOLE under Subchapter J (Employment Records and Preemployment Procedure);

(iii)-(ix) makes no changes to these subparagraphs;

(x)-(xi) makes nonsubstantive changes to these subparagraphs; and

(xii) information on the person's law enforcement background as available through a database designated by TCOLE under Section 1701.169 and, if applicable, a file or record obtained by TCOLE under Section 1701.3035.

SECTION 15. Amends Subchapter J, Chapter 1701, Occupations Code, by adding Section 1701.4522, as follows:

Sec. 1701.4522. MISCONDUCT INVESTIGATION AND HIRING PROCEDURES.

(a) Requires TCOLE to adopt a model policy establishing procedures applicable to a law enforcement agency:

(1) investigating alleged misconduct by a license holder employed by the agency; and

(2) hiring a license holder.

(b) Requires that the policy adopted under this section:

(1) require a law enforcement agency to:

(A) initiate an appropriate administrative or criminal investigation into alleged misconduct of a license holder employed by the law enforcement agency at the time the agency becomes aware of the alleged misconduct;

(B) complete the investigation described by Paragraph (A) in a timely manner, as prescribed by TCOLE;

(C) report an investigation into alleged criminal misconduct for which criminal charges are filed against the license holder to TCOLE in a timely manner after the investigation is completed;

(D) complete an administrative investigation of alleged misconduct and prepare and submit to TCOLE a report on the investigation, including the disposition of the investigation and any formal findings in a format prescribed by TCOLE, in a timely manner but not later than the 30th day after the date of the license holder's separation from the agency, if applicable;

(E) include documentation of the completed investigation in the personnel file, as described by Section 1701.4535, of the license holder maintained by the agency; and

(F) submit to TCOLE each report of a completed investigation;

(2) provide that an investigation into the alleged misconduct of a license holder is prohibited from being terminated by the resignation, retirement, termination, death, or separation from employment of the license holder;

(3) specify that a license holder under investigation for misconduct is entitled to any internal due process procedures provided by the investigating agency to contest the investigation or completed report;

(4) require a law enforcement agency to request and review any information regarding an applicant for employment maintained by TCOLE in the licensing status database established under Section 1701.168 as part of the preemployment procedures required under Section 1701.451(a);

(5) establish a provisional hiring period of at least 45 days for any license holder employed by a law enforcement agency and allow a law enforcement agency to terminate the employment of the license holder if information relating to an investigation of alleged misconduct by the license holder is made available to the agency by TCOLE as part of the preemployment procedures required under Section 1701.451(a) within the provisional period; and

(6) take into account the variation in size, function, and jurisdiction of law enforcement agencies in this state.

(c) Requires a law enforcement agency to adopt the model policy described by Subsection (a) or a substantively similar policy. Requires that a policy adopted by a law enforcement agency under this section be submitted to TCOLE and requires TCOLE to maintain a copy of the policy.

(d) Requires TCOLE to maintain each report received under a policy adopted under this section as part of the license holder's record in the licensing status database established under Section 1701.168.

(e) Requires TCOLE to notify a law enforcement agency seeking to appoint a license holder of a completed investigation report submitted to TCOLE with respect to the license holder not later than the fifth business day after the date TCOLE receives the report.

SECTION 16. Amends Section 1701.453, Occupations Code, as follows:

Sec. 1701.453. New heading: MAINTENANCE OF REPORTS. Requires TCOLE to maintain a copy of each report, rather than report and statement, submitted to TCOLE under this subchapter until at least the 10th anniversary of the date on which the report, rather than report or statement, is submitted.

SECTION 17. Amends Subchapter J, Chapter 1701, Occupations Code, by adding Section 1701.4535, as follows:

Sec. 1701.4535. PERSONNEL FILE. (a) Requires TCOLE to adopt a model policy regarding personnel files maintained with respect to a license holder. Requires that the policy:

(1) require the head of a law enforcement agency or the head's designee to maintain a personnel file on each license holder employed by the agency that contains any letter, memorandum, or document relating to:

(A) a commendation, congratulation, or honor bestowed on the license holder by a member of the public or by the employing agency for an action, duty, or activity that relates to the license holder's official duties;

(B) any misconduct by the license holder if the letter, memorandum, or document is from the employing agency and the misconduct resulted in disciplinary action by the employing agency; and

(C) the periodic evaluation of the license holder by a supervisor; and

(2) provide that:

(A) a letter, memorandum, or document relating to alleged misconduct by the license holder is prohibited from being placed in the license holder's personnel file if the employing agency determines that there is insufficient evidence to sustain the charge of misconduct;

(B) if a negative letter, memorandum, document, or other notation of negative impact is included in a license holder's personnel file:

(i) the agency head or the head's designee is required, not later than the 30th day after the date of the inclusion, to notify the affected license holder by certified mail; and

(ii) the license holder is authorized to, on or before the 30th day after the date of receipt of the notification, file a written response to the negative letter, memorandum, document, or other notation;

(C) information contained in a license holder's personnel file is prohibited from being released without the license holder's written permission, unless the release is required by law;

(D) a license holder is entitled, on request, to a copy of any letter, memorandum, or document placed in the license holder's personnel file; and

(E) an employing agency is authorized to charge the license holder a reasonable fee not to exceed the actual cost of any copies described by Paragraph (D).

(b) Requires that a law enforcement agency adopt the model policy described by Subsection (a) or a substantively similar policy. Requires that a policy adopted by a law enforcement agency under this section be submitted to TCOLE, and TCOLE is required to maintain a copy of the policy.

(c) Prohibits a law enforcement agency, except as provided by Subsections (d) and (e), from releasing any information contained in a license holder's personnel file to any other agency or person requesting information relating to the license holder unless required by law. Requires the agency to refer the person or agency requesting the information to the agency head or the head's designee.

(d) Requires that a law enforcement agency provide a license holder's personnel file to TCOLE:

(1) not later than the 30th day after the date the license holder separates from the agency; or

(2) on request by TCOLE as part of an ongoing investigation relating to the license holder.

(e) Provides that a law enforcement agency hiring a license holder is entitled to view the contents of the license holder's personnel file, as provided by Section 1701.451.

SECTION 18. Amends Section 1701.456(a), Occupations Code, to provide that TCOLE is not liable for civil damages for providing information contained in a report, rather than a report or statement, maintained by TCOLE under this subchapter if TCOLE released the information as provided by this subchapter.

SECTION 19. Amends the heading to Subchapter K, Chapter 1701, Occupations Code, to read as follows:

SUBCHAPTER K. DISCIPLINARY GROUNDS AND PROCEDURES

SECTION 20. Amends Section 1701.501, Occupations Code, by adding Subsection (a-1), as follows:

(a-1) Requires TCOLE, except with respect to an officer elected under the Texas Constitution, to revoke or suspend a law enforcement agency's authority to employ a license holder, place on probation an agency whose authority to employ a license holder has been suspended, or reprimand a law enforcement agency for a violation described by Subsection (a).

SECTION 21. Amends Subchapter K, Chapter 1701, Occupations Code, by adding Section 1701.5011, as follows:

Sec. 1701.5011. EMERGENCY SUSPENSION. (a) Requires TCOLE to adopt rules specifying the circumstances under which TCOLE is authorized to issue an emergency

order, without a hearing, suspending a person's license for a period not to exceed 90 days after determining that the person constitutes an imminent threat to the public health, safety, or welfare.

(b) Requires that an order suspending a license under this section state the length of the suspension in the order.

(c) Requires TCOLE, if an emergency order is issued without a hearing under this section, to, not later than the 10th day after the date the order was issued, set the time and place for a hearing on the order. Requires that the hearing be conducted as soon as practicable. Requires that a hearing under this section to affirm, modify, or set aside the emergency order be conducted by the State Office of Administrative Hearings (SOAH). Requires that the order be affirmed to the extent that good cause existed to issue the order.

(d) Authorizes TCOLE by rule to prescribe procedures for the determination and appeal of an emergency order issued under this section, including a rule allowing TCOLE to affirm, modify, or set aside a decision made by SOAH under Subsection (c).

(e) Provides that a proceeding under this section is a contested case under Chapter 2001, Government Code.

SECTION 22. Repealers: Sections 1701.452(b) (relating to requiring the head of a law enforcement agency or the head's designee to include in the report a statement on the discharge status of the license holder) and (c) (relating to authorizing TCOLE by rule to further specify the circumstances that constitute honorably discharged, dishonorably discharged, and generally discharged), Occupations Code.

Repealers: Sections 1701.4521 (License Suspension for Officer Dishonorably Discharged) and 1701.4525 (Petition for Correction of Report; Hearing), Occupations Code.

SECTION 23. (a) Provides that except as provided by Subsection (b) of this section, Section 1701.059, Occupations Code, as amended by this Act, applies to a member of TCOLE appointed before, on, or after the effective date of this Act.

(b) Provides that a member of TCOLE who, before the effective date of this Act, completed the training program required by Section 1701.059, Occupations Code, as that law existed before the effective date of this Act, is only required to complete additional training on the subjects added by this Act to the training program required by Section 1701.059, Occupations Code. Prohibits a TCOLE member described by this subsection from voting, deliberating, or being counted as a member in attendance at a meeting of TCOLE held on or after December 1, 2023, until the member completes the additional training.

SECTION 24. (a) Requires TCOLE, not later than March 1, 2024, to:

(1) adopt rules and update forms as necessary to implement the changes in law made by this Act to Chapter 1701, Occupations Code;

(2) adopt the model policies required by Sections 1701.167, 1701.4522, and 1701.4535, Occupations Code, as added by this Act;

(3) establish the licensing status database as required by Section 1701.168, Occupations Code, as added by this Act;

(4) designate the databases as required by Sections 1701.169 and 1701.170, Occupations Code, as added by this Act; and

(5) establish a date by which each law enforcement agency in this state is required to adopt the policies required by Sections 1701.167, 1701.4522, and 1701.4535, Occupations Code, as added by this Act.

(b) Requires TCOLE, not later than September 1, 2024, to establish the database containing officer personal service reports as required by Section 1701.205, Occupations Code, as added by this Act.

SECTION 25. Makes application of Sections 1701.303 and 1701.451(a), Occupations Code, as amended by this Act, and Section 1701.3035, Occupations Code, as added by this Act, prospective to March 1, 2024.

SECTION 26. Provides that the changes in law made by this Act to Subchapter J, Chapter 1701, Occupations Code, apply only to a report required to be submitted under Section 1701.452, Occupations Code, as amended by this Act, regarding a separation of a license holder that occurs on or after March 1, 2024. Provides that a separation that occurs before March 1, 2024, is governed by the law in effect immediately before the effective date of this Act, and the former law is continued in effect for that purpose.

SECTION 27. Makes application of Section 1701.3135, Occupations Code, as added by this Act, prospective.

SECTION 28. Makes application of Section 1701.501(a-1), Occupations Code, as added by this Act, prospective.

SECTION 29. Effective date: September 1, 2023.