88R1079 SCL-F

By:  Thompson of Harris H.B. No. 413

A BILL TO BE ENTITLED

AN ACT

relating to a progressive disciplinary matrix for police officer misconduct in certain municipalities.

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

SECTION 1.  Subchapter B, Chapter 142, Local Government Code, is amended by adding Section 142.0605 to read as follows:

Sec. 142.0605.  PROGRESSIVE DISCIPLINARY MATRIX. (a) A public employer shall implement a progressive disciplinary matrix, as described by Section 143.0511, for municipal police officers if the municipality has not adopted Chapter 143.

(b)  The public employer shall adopt rules necessary to implement the progressive disciplinary matrix.

SECTION 2.  Section 142.067, Local Government Code, is amended to read as follows:

Sec. 142.067.  AGREEMENT SUPERSEDES CONFLICTING PROVISIONS. (a) Except as provided by Subsection (b), a [~~A~~] written meet and confer agreement ratified under this subchapter preempts, during the term of the agreement and to the extent of any conflict, all contrary state statutes, local ordinances, executive orders, civil service provisions, or rules adopted by the head of the law enforcement agency or municipality or by a division or agent of the municipality, such as a personnel board or a civil service commission.

(b)  An agreement under this subchapter:

(1)  must implement the progressive disciplinary matrix established under Section 142.0605 or 143.0511; and

(2)  may not conflict with and does not supersede a statute, ordinance, order, civil service provision, or rule concerning the disciplinary actions that may be imposed on a police officer under the progressive disciplinary matrix.

SECTION 3.  Section 143.003, Local Government Code, is amended by adding Subdivision (6) to read as follows:

(6)  "Progressive disciplinary matrix" means a formal schedule for disciplinary actions that may be taken against a police officer as described by Section 143.0511.

SECTION 4.  Section 143.008, Local Government Code, is amended by amending Subsection (c) and adding Subsection (c-1) to read as follows:

(c)  The commission shall adopt rules that prescribe cause for removal or suspension of a fire fighter [~~or police officer~~]. The rules must comply with the grounds for removal prescribed by Section 143.051.

(c-1)  The commission shall adopt rules that prescribe the disciplinary actions that may be taken against a police officer under a progressive disciplinary matrix.

SECTION 5.  Subchapter D, Chapter 143, Local Government Code, is amended by adding Section 143.0511 to read as follows:

Sec. 143.0511.  PROGRESSIVE DISCIPLINARY MATRIX. (a) The commission shall implement a progressive disciplinary matrix for infractions committed by police officers that consists of a range of progressive disciplinary actions applied in a standardized way based on the nature of the infraction and the officer's prior conduct record, including removal, suspension, change of duty or assignment, demotion, deduction of points from a promotional examination grade, retraining, a written warning, or a written reprimand.

(b)  The progressive disciplinary matrix must include:

(1)  standards for disciplinary actions relating to the use of force against another person, including the failure to de-escalate force incidents in accordance with departmental policy;

(2)  standards for evaluating the level of discipline appropriate for uncommon infractions; and

(3)  presumptive actions to be taken for each type of infraction and any adjustment to be made based on a police officer's previous disciplinary record.

SECTION 6.  Section 143.057, Local Government Code, is amended by amending Subsection (a) and adding Subsection (b-1) to read as follows:

(a)  In addition to the other notice requirements prescribed by this chapter, the written notice for a promotional bypass or the letter of disciplinary action, as applicable, issued to a fire fighter or police officer must state that in an appeal of an indefinite suspension, a suspension, a promotional bypass, [~~or~~] a recommended demotion, or, if issued to a police officer, any other disciplinary sanction, the appealing fire fighter or police officer may elect to appeal to an independent third party hearing examiner instead of to the commission. The letter must also state that if the fire fighter or police officer elects to appeal to a hearing examiner, the person waives all rights to appeal to a district court except as provided by Subsection (j).

(b-1)  A hearing examiner must presume a disciplinary action applied to a police officer under a progressive disciplinary matrix is reasonable unless the facts indicate that the department inappropriately applied a category of offense to the particular violation.

SECTION 7.  Section 143.307, Local Government Code, is amended by amending Subsections (a) and (b) and adding Subsection (d) to read as follows:

(a)  Except as provided by Subsection (d), an [~~An~~] agreement under this subchapter supersedes a previous statute concerning wages, salaries, rates of pay, hours of work, or other terms and conditions of employment to the extent of any conflict with the statute.

(b)  Except as provided by Subsection (d), an [~~An~~] agreement under this subchapter preempts any contrary statute, executive order, local ordinance, or rule adopted by the state or a political subdivision or agent of the state, including a personnel board, a civil service commission, or a home-rule municipality.

(d)  An agreement under this subchapter affecting police officers:

(1)  must implement the progressive disciplinary matrix established under Section 143.0511; and

(2)  may not conflict with and does not supersede a statute, order, ordinance, or rule concerning the disciplinary actions that may be imposed on a police officer under the progressive disciplinary matrix.

SECTION 8.  Section 143.361, Local Government Code, is amended by amending Subsections (a) and (b) and adding Subsection (d) to read as follows:

(a)  Except as provided by Subsection (d), a [~~A~~] written agreement ratified under this subchapter between a public employer and the bargaining agent supersedes a previous statute concerning wages, salaries, rates of pay, hours of work, and other terms of employment other than pension benefits to the extent of any conflict with the previous statute.

(b)  Except as provided by Subsection (d), a [~~A~~] written agreement ratified under this subchapter preempts all contrary local ordinances, executive orders, legislation, or rules adopted by the state or a political subdivision or agent of the state, such as a personnel board, a civil service commission, or a home-rule municipality.

(d)  An agreement under this subchapter affecting police officers:

(1)  must implement the progressive disciplinary matrix established under Section 143.0511; and

(2)  may not conflict with and does not supersede an ordinance, order, statute, or rule concerning the disciplinary actions that may be imposed on a police officer under the progressive disciplinary matrix.

SECTION 9.  Section 174.005, Local Government Code, is amended to read as follows:

Sec. 174.005.  PREEMPTION OF OTHER LAW. (a) Except as provided by Subsection (b), this [~~This~~] chapter preempts all contrary local ordinances, executive orders, legislation, or rules adopted by the state or by a political subdivision or agent of the state, including a personnel board, civil service commission, or home-rule municipality.

(b)  An agreement under this chapter may not conflict with an ordinance, order, statute, or rule concerning the disciplinary actions that may be imposed on municipal police officers under a progressive disciplinary matrix implemented by the municipal public employer.

SECTION 10.  Section 174.006, Local Government Code, is amended by amending Subsection (a) and adding Subsection (a-1) to read as follows:

(a)  Except as provided by Subsection (a-1), a [~~A~~] state or local civil service provision prevails over a collective bargaining contract under this chapter unless the collective bargaining contract specifically provides otherwise.

(a-1)  A collective bargaining contract affecting municipal police officers may not conflict with a state or local civil service provision implementing a progressive disciplinary matrix under this chapter or other law.

SECTION 11.  Subchapter B, Chapter 174, Local Government Code, is amended by adding Section 174.024 to read as follows:

Sec. 174.024.  PROGRESSIVE DISCIPLINARY MATRIX FOR CERTAIN POLICE OFFICERS. (a) A municipal public employer shall implement a progressive disciplinary matrix, as described by Section 143.0511, for municipal police officers if the municipality has not adopted Chapter 143.

(b)  The municipal public employer shall adopt rules necessary to implement the progressive disciplinary matrix.

SECTION 12.  The changes in law made by this Act to the Local Government Code apply only to a disciplinary action for conduct that occurs on or after March 1, 2024. Conduct that occurs before that date is governed by the law in effect immediately before that date, and the former law is continued in effect for that purpose.

SECTION 13.  Sections 142.067(b), 143.307(d), 143.361(d), 174.005(b), and 174.006(a-1), Local Government Code, as added by this Act, apply only to an agreement entered into or renewed on or after March 1, 2024. An agreement entered into or renewed before March 1, 2024, is governed by the law in effect on the date the agreement was entered into or renewed, and the former law is continued in effect for that purpose.

SECTION 14.  (a) The Bill Blackwood Law Enforcement Management Institute of Texas shall consult with law enforcement agencies of all sizes, law enforcement associations, law enforcement training experts, and appropriate organizations engaged in the development of law enforcement policy to develop a model progressive disciplinary matrix, as defined by Section 143.003(6), Local Government Code, as added by this Act, and associated training materials regarding the application of that matrix. The institute shall provide for a period of public comment before adopting the model progressive disciplinary matrix and training materials.

(b)  Not later than January 1, 2024, the institute shall adopt and disseminate the model progressive disciplinary matrix and training materials to all law enforcement agencies and civil service commissions in this state.

(c)  This section expires September 1, 2024.

SECTION 15.  This Act takes effect September 1, 2023.