88R827 JCG-F

By:  Eckhardt S.B. No. 219

A BILL TO BE ENTITLED

AN ACT

relating to the powers and duties of the Texas Commission on Law Enforcement and law enforcement agencies regarding law enforcement officers and the use of body worn cameras; authorizing fees.

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

SECTION 1.  Section 1701.154, Occupations Code, is amended to read as follows:

Sec. 1701.154.  FEES. (a) The commission may establish reasonable and necessary fees for the administration of this chapter, including reasonable and necessary fees for the administration of Section 1701.257.

(b)  The commission shall establish a fee for the issuance of a license under this chapter as follows:

(1)  $80 for an officer license; and

(2)  $25 for a license issued under this chapter other than a license described by Subdivision (1).

SECTION 2.  Subchapter F, Chapter 1701, Occupations Code, is amended by adding Section 1701.272 to read as follows:

Sec. 1701.272.  MODEL POLICY ON USE OF FORCE. (a) The commission shall develop and make available to all law enforcement agencies in this state a model policy and associated training materials regarding the use of force by peace officers. The model policy must:

(1)  be designed to minimize the number and severity of incidents in which peace officers use force and include an emphasis on conflict de-escalation and the use of force in a manner proportionate to the threat posed and to the seriousness of the alleged offense; and

(2)  be consistent with the guiding principles on the use of force issued by the Police Executive Research Forum.

(b)  In developing a model policy under this section, the commission shall consult with:

(1)  law enforcement agencies and organizations, including the Police Executive Research Forum and other national experts on police management and training; and

(2)  community organizations.

(c)  On request of a law enforcement agency, the commission shall provide the agency with training regarding the policy developed under Subsection (a).

SECTION 3.  Section 1701.307(a), Occupations Code, is amended to read as follows:

(a)  The commission shall issue an appropriate officer or county jailer license to a person who, as required by this chapter:

(1)  submits an application;

(2)  completes the required training;

(3)  passes the required examination;

(4)  is declared to be in satisfactory psychological and emotional health and free from drug dependency or illegal drug use; [~~and~~]

(5)  demonstrates weapons proficiency; and

(6)  pays any required fees.

SECTION 4.  Section 1701.3071(a), Occupations Code, is amended to read as follows:

(a)  The commission shall issue a telecommunicator license to a person who:

(1)  submits an application;

(2)  completes the required training;

(3)  passes the required examination; [~~and~~]

(4)  meets any other requirement of this chapter and the rules prescribed by the commission to qualify as a telecommunicator; and

(5)  pays any required fees.

SECTION 5.  The heading to Subchapter K, Chapter 1701, Occupations Code, is amended to read as follows:

SUBCHAPTER K. DISCIPLINARY GROUNDS AND PROCEDURES

SECTION 6.  Subchapter K, Chapter 1701, Occupations Code, is amended by adding Section 1701.5015 to read as follows:

Sec. 1701.5015.  CERTAIN GROUNDS FOR DISCIPLINE OF PEACE OFFICER. (a) The commission by rule shall establish grounds under which the commission shall suspend or revoke a peace officer license on a determination by the commission that the license holder's continued performance of duties as a peace officer constitutes a threat to the public welfare.

(b)  The grounds under Subsection (a) must include:

(1)  lack of competence in performing the license holder's duties as a peace officer;

(2)  illegal drug use or an addiction that substantially impairs the license holder's ability to perform the license holder's duties as a peace officer;

(3)  lack of truthfulness in court proceedings or other governmental operations, including:

(A)  making a false statement in an offense report or other report as part of an investigation, unless the false statement is recanted not later than the 10th day after the date the false statement is made;

(B)  making a false statement to obtain employment as a peace officer;

(C)  making a false entry in court records or tampering with evidence; or

(D)  engaging in conduct designed to impair the results or procedure of an examination or testing process associated with obtaining employment as a peace officer or a promotion to a higher rank;

(4)  failure to follow the directives of a supervising officer or to follow the policies of the employing law enforcement agency;

(5)  discriminatory conduct, including engaging in a course of conduct or a single egregious act, based on the race, color, religion, sex, pregnancy, national origin, age, disability, or sexual orientation of another that would cause a reasonable person to believe that the license holder is unable to perform the license holder's duties as a peace officer in a fair manner; or

(6)  conduct indicating a pattern of:

(A)  excessive use of force;

(B)  abuse of official capacity;

(C)  inappropriate relationships with persons in the custody of the license holder;

(D)  sexual harassment or sexual misconduct while performing the license holder's duties as a peace officer; or

(E)  misuse of information obtained as a result of the license holder's employment as a peace officer and related to the enforcement of criminal offenses.

(c)  In making a determination under Subsection (a), the commission may not consider whether the license holder is prosecuted for or convicted of an offense based on the conduct that is the ground for suspension or revocation.

SECTION 7.  Section 1701.655(b), Occupations Code, is amended to read as follows:

(b)  A policy described by Subsection (a) must ensure that a body worn camera is activated only for a law enforcement purpose and must include:

(1)  guidelines for when a peace officer should activate a camera or discontinue a recording currently in progress, considering the need for privacy in certain situations and at certain locations;

(2)  provisions relating to data retention, including a provision requiring the retention of video for a minimum period of 90 days;

(3)  provisions relating to storage of video and audio, creation of backup copies of the video and audio, and maintenance of data security;

(4)  provisions relating to the collection of a body worn camera, including the applicable video and audio recorded by the camera, as evidence;

(5)  guidelines for public access, through open records requests, to recordings that are public information;

(6)  [~~provisions entitling an officer to access any recording of an incident involving the officer before the officer is required to make a statement about the incident;~~

[~~(7)~~] procedures for supervisory or internal review; and

(7) [~~(8)~~]  the handling and documenting of equipment and malfunctions of equipment.

SECTION 8.  Section 1701.660, Occupations Code, is amended to read as follows:

Sec. 1701.660.  RECORDINGS AS EVIDENCE. (a) A [~~Except as provided by Subsections (a-1) and (b), a~~] recording created with a body worn camera and documenting an incident that involves the use of deadly force by a peace officer or that is otherwise related to an administrative or criminal investigation of an officer may not be deleted or [~~,~~] destroyed[~~, or released to the public~~] until all criminal matters have been finally adjudicated and all related administrative investigations have concluded.

(a-1)  A law enforcement agency shall [~~may~~] permit a person who is depicted in a recording of an incident described by Subsection (a) or, if the person is deceased, the person's authorized representative, to view the recording, on request of the applicable person, provided that [~~the law enforcement agency determines that the viewing furthers a law enforcement purpose and provided that~~] any authorized representative who is permitted to view the recording was not a witness to the incident. [~~A person viewing a recording may not duplicate the recording or capture video or audio from the recording.~~] A permitted viewing of a recording under this subsection is not considered to be a release of public information for purposes of Chapter 552, Government Code.

(b)  A law enforcement agency shall adopt a policy for releasing [~~may release~~] to the public a recording described by Subsection (a) that prioritizes access to the recording in the following order:

(1)  the civilian oversight system associated with the law enforcement agency, if any;

(2)  the officer who used deadly force or is under investigation and the individual who is the subject of the recording, or if the individual is deceased, the individual's authorized representative, and any attorney representing the officer, individual, or representative described in this subdivision; and

(3)  the public [~~if the law enforcement agency determines that the release furthers a law enforcement purpose~~].

[~~(c)  This section does not affect the authority of a law enforcement agency to withhold under Section 552.108, Government Code, information related to a closed criminal investigation that did not result in a conviction or a grant of deferred adjudication community supervision.~~]

SECTION 9.  Not later than January 1, 2024, the Texas Commission on Law Enforcement shall:

(1)  develop and make available the model policy and associated training materials required under Section 1701.272, Occupations Code, as added by this Act; and

(2)  adopt the rules required by Section 1701.5015, Occupations Code, as added by this Act.

SECTION 10.  Section 1701.154, Occupations Code, as amended by this Act, applies only to a person who submits an application for a license issued under Chapter 1701, Occupations Code, on or after the effective date of this Act. A person who submits an application before the effective date of this Act is governed by the law in effect on the date the application was submitted, and the former law is continued in effect for that purpose.

SECTION 11.  Section 1701.5015, Occupations Code, as added by this Act, applies only to conduct that occurs on or after January 1, 2024. Conduct that occurs before January 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 12.  This Act takes effect September 1, 2023.