88R29254 SCP-D

By:  Paxton, et al. S.B. No. 1445

(Goldman)

Substitute the following for S.B. No. 1445:

By:  Holland C.S.S.B. No. 1445

A BILL TO BE ENTITLED

AN ACT

relating to the continuation and functions of the Texas Commission on Law Enforcement; authorizing a fee.

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

SECTION 1.  Section 1701.001, Occupations Code, is amended by adding Subdivision (2-a) to read as follows:

(2-a) "Misconduct" means:

(A)  a violation of law; or

(B)  any of the following that have been sustained by a law enforcement agency employing a license holder:

(i)  a violation of a law enforcement agency policy for which the agency may suspend, demote, or terminate a license holder's employment; or

(ii)  an allegation of untruthfulness against a license holder.

SECTION 2.  Section 1701.002, Occupations Code, is amended to read as follows:

Sec. 1701.002.  APPLICATION OF SUNSET ACT. The Texas Commission on Law Enforcement is subject to Chapter 325, Government Code (Texas Sunset Act). Unless continued in existence as provided by that chapter, the commission is abolished and this chapter expires September 1, 2031 [~~2023~~].

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

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

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

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

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

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

(5) [~~(4)~~]  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) [~~(5)~~]  any applicable ethics policies adopted by the commission or the Texas Ethics Commission.

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

SECTION 4.  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 services, facilities, studies, and reports required for:

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

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

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

SECTION 5.  Section 1701.163, Occupations Code, is amended to read as follows:

Sec. 1701.163.  MINIMUM STANDARDS FOR LAW ENFORCEMENT AGENCIES [~~INFORMATION PROVIDED BY COMMISSIONING ENTITIES~~]. [~~(a) 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.~~

[~~(b)~~]  The [~~entity shall submit to the~~] commission, with input from an advisory committee, shall by rule establish 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 [~~on creation of the law enforcement agency or police department information regarding~~]:

(1)  a determination regarding the public benefit of creating the [~~need for the law enforcement~~] agency [~~or police department~~] in the community;

(2)  the sustainable funding sources for the [~~law enforcement~~] agency [~~or police department~~];

(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 [~~that~~] the [~~law enforcement~~] agency [~~or police department will operate~~], including any [~~descriptions of the~~] evidence room, dispatch area, or [~~and~~] public area;

(5)  the [~~law enforcement~~] policies of the [~~law enforcement~~] agency [~~or police department~~], including policies on:

(A)  use of force;

(B)  vehicle pursuit;

(C)  professional conduct of officers;

(D)  domestic abuse protocols;

(E)  response to missing persons;

(F)  supervision of part-time officers; [~~and~~]

(G)  impartial policing;

(H)  active shooters; and

(I)  barricaded subjects;

(6)  the administrative structure of the [~~law enforcement~~] agency [~~or police department~~];

(7)  liability insurance; and

(8)  any other standard [~~information~~] the commission considers necessary [~~requires by rule~~].

SECTION 6.  Subchapter D, Chapter 1701, Occupations Code, is amended by adding Sections 1701.165, 1701.166, 1701.167, 1701.168, 1701.169, 1701.170, and 1701.171 to read as follows:

Sec. 1701.165.  ADVISORY COMMITTEES. (a) The commission by rule may establish advisory committees to make recommendations to the commission on programs, rules, and policies administered by the commission.

(b)  In establishing an advisory committee under this section, the commission shall 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 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, Government Code, applicable to the commission or the committee.

Sec. 1701.166.  SUBPOENA. (a) The commission may compel by subpoena the production for inspection or copying of a record described by Section 1701.162(a) that is relevant to the investigation of an alleged violation of this chapter or a commission rule.

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

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

(1)  Travis County; or

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

(d)  The court shall 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) The commission, with input from an advisory committee, shall 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. The model policy must:

(1)  apply to examinations of:

(A)  a person to whom Section 1701.306 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; 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 the commission, in the manner prescribed by the commission, the refusal of the license holder to submit to the examination within the period provided by Paragraph (A); and

(3)  require the reporting to the commission, in the manner prescribed by the commission, 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 the commission.

(b)  Each law enforcement agency in this state shall adopt the model policy described by Subsection (a) or a substantively similar policy. A policy adopted by a law enforcement agency under this section must be submitted to the commission, and the commission shall maintain a copy of the policy.

(c)  The providing of notice by a law enforcement agency to the commission 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)  The commission shall 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. The commission shall provide notice under this section by personal service or by registered mail, return receipt requested.

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

(f)  Unless the request is withdrawn, the commission may suspend or otherwise restrict the license of a license holder who refuses to submit to the examination.

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

(h)  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), the commission shall suspend the license holder's license.

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

(j)  An order issued by the commission regarding a license holder that is based on information obtained during an examination under this section may only reference the statutory basis for the order and may not disclose the reason for the examination.

Sec. 1701.168.  LICENSING STATUS DATABASE. (a) The commission shall 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 the commission; and

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

(b)  The commission shall make available to a law enforcement agency on request any relevant information maintained in the database for purposes of Sections 1701.303 and 1701.451(a).

(c)  On request of an officer, the commission shall 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)  Except as provided by Subsections (b) and (c), information maintained in the database established under this section is confidential and not subject to disclosure under Chapter 552, Government Code.

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

Sec. 1701.170.  SUBMISSION OF REVOKED LICENSE TO NATIONAL DATABASE. (a) The commission shall 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)  The commission shall submit to the designated database information necessary to create a record in the database for each officer license the commission revokes under Section 1701.501, 1701.502, or 1701.503.

Sec. 1701.171.  STANDARDS OF CONDUCT. (a) The commission shall adopt a model policy prescribing minimum standards of conduct for officers. The policy must:

(1)  prescribe minimum standards of conduct with respect to:

(A)  pursuit of a suspect;

(B)  arrest and control tactics;

(C)  executing high-risk warrants; and

(D)  conducting traffic stops, including a uniform standard for conducting a traffic stop for an offense punishable by fine only;

(2)  establish a process by which a law enforcement agency must investigate alleged misconduct of an officer employed by the agency that is consistent with the model policy adopted under Section 1701.4522; and

(3)  require a law enforcement agency to report to the commission an officer employed by the agency found to have engaged in egregious misconduct as determined by the commission.

(b)  Each law enforcement agency in this state shall adopt the model policy described by Subsection (a) or a substantively similar policy. A policy adopted by a law enforcement agency under this section must be submitted to the commission, and the commission shall maintain a copy of the policy.

(c)  The reporting by a law enforcement agency to the commission of an officer's misconduct under this section does not preclude the agency employing the officer from taking disciplinary action against the officer.

(d)  The commission may take disciplinary action in accordance with Subchapter K against an officer for whom a report of misconduct is submitted to the commission.

(e)  The commission shall maintain a record of each report submitted to the commission and any actions taken by the commission as a result of the report as part of the personnel files maintained in the licensing database established under Section 1701.168.

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

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

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

SECTION 8.  Section 1701.203(c), Occupations Code, is amended to read as follows:

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

SECTION 9.  Subchapter E, Chapter 1701, Occupations Code, is amended by adding Section 1701.205 to read as follows:

Sec. 1701.205.  OFFICER PERSONAL SERVICE REPORTS. (a) The commission shall establish a public database containing personal service reports of each officer licensed under this chapter. A service report must:

(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)  Except as otherwise provided by this section, a service report must 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)  The commission shall 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. Rules adopted under this section must allow an officer described by this subsection or the law enforcement agency employing the officer to request, in a manner prescribed by the commission, the service report of the officer to be excluded from the database. 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)  The commission shall:

(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)  The user information collected and maintained by the commission 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.  Section 1701.253, Occupations Code, is amended by adding Subsection (a-1) and amending Subsections (g), (h), (i), (j), (l), (m), (o), and (p) to read as follows:

(a-1)  The commission by rule shall 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)  As part of the minimum curriculum requirements, the commission shall establish a statewide comprehensive education and training program on asset forfeiture under Chapter 59, Code of Criminal Procedure, for officers licensed under this chapter. [~~An officer shall 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)  As part of the minimum curriculum requirements, the commission shall establish a statewide comprehensive education and training program on racial profiling for officers licensed under this chapter. [~~An officer shall 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)  As part of the minimum curriculum requirements, the commission shall establish a statewide comprehensive education and training program on identity theft under Section 32.51, Penal Code, for officers licensed under this chapter. [~~An officer shall 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)  As part of the minimum curriculum requirements, the commission shall require an officer to complete a 40-hour statewide education and training program on de-escalation and crisis intervention techniques to facilitate interaction with persons with mental impairments. [~~An officer shall 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.~~] An officer may not satisfy the requirements of this subsection or Section 1701.402(g) by taking an online course on de-escalation and crisis intervention techniques to facilitate interaction with persons with mental impairments.

(l)  As part of the minimum curriculum requirements, the commission shall require an officer licensed by the commission on or after January 1, 2016, to complete a canine encounter training program established by the commission under Section 1701.261. [~~An officer shall 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)  As part of the minimum curriculum requirements, the commission shall establish a statewide comprehensive education and training program on procedures for interacting with drivers who are deaf or hard of hearing, as defined by Section 81.001, Human Resources Code, including identifying specialty license plates issued to individuals who are deaf or hard of hearing under Section 504.204, Transportation Code. [~~An officer shall 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)  As part of the minimum curriculum requirements, the commission shall require an officer to complete the civilian interaction training program developed under Section 1701.268. [~~An officer shall 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)  As part of the minimum curriculum requirements, the commission shall require an officer to complete the basic education and training program on the trafficking of persons developed under Section 1701.258(a). [~~An officer shall 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.  Section 1701.303, Occupations Code, is amended to read as follows:

Sec. 1701.303.  LICENSE APPLICATION; DUTIES OF APPOINTING ENTITY. (a) Before a [~~A~~] law enforcement agency or governmental entity [~~that~~] hires a person for whom a license is sought, the agency or entity must:

(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 the commission under Section 1701.3035; and

(2)  file an application with the commission as provided by commission rule.

(b)  A person who appoints an officer or county jailer licensed by the commission shall notify the commission not later than the 30th day after the date of the appointment. 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, the person must have on file for the license holder [~~officer or county jailer~~] in a form readily accessible to the commission:

(1)  new criminal history record information;

(2)  a new declaration of psychological and emotional health and lack of drug dependency or illegal drug use; and

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

(c)  A person who appoints or employs a telecommunicator licensed by the commission shall notify the commission not later than the 30th day after the date of the appointment or employment. 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, the person must have on file in a form readily accessible to the commission:

(1)  new criminal history record information; and

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

SECTION 12.  Subchapter G, Chapter 1701, Occupations Code, is amended by adding Sections 1701.3035 and 1701.3135 to read as follows:

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

(b)  An applicant for an officer license may not be denied a license for the sole reason that the licensing authority of another state did not provide a record requested by the commission under this section.

Sec. 1701.3135.  DISQUALIFICATION: REVOCATION OR SUSPENSION IN ANOTHER STATE. A person is disqualified to be an officer, and the commission may not issue 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 the commission to revoke or suspend a license in this state.

SECTION 13.  Section 1701.404(b), Occupations Code, is amended to read as follows:

(b)  The commission may 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)  completes a training course in emergency first aid and lifesaving techniques approved by the commission;

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

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

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

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

SECTION 14.  Section 1701.451(a), Occupations Code, is amended to read as follows:

(a)  Before a law enforcement agency may hire a person licensed under this chapter, the agency must, on a form and in the manner prescribed by the commission:

(1)  obtain the person's written consent for the agency to review the information required to be reviewed under this section;

(2)  request from the commission and any other applicable person information required to be reviewed under this section; and

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

(A)  contacted each entity or individual necessary to obtain the information required to be reviewed under this section; 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 the commission under this subchapter;

(iii)  service records maintained by the commission;

(iv)  proof that the person meets the minimum qualifications for enrollment in a training program under Section 1701.251(a);

(v)  a military veteran's United States Department of Defense Form DD-214 or other military discharge record;

(vi)  criminal history record information;

(vii)  information on pending warrants as available through the Texas Crime Information Center and National Crime Information Center;

(viii)  evidence of financial responsibility as required by Section 601.051, Transportation Code;

(ix)  a driving record from the Department of Public Safety;

(x)  proof of United States citizenship; [~~and~~]

(xi)  information on the person's background from at least three personal references and at least two professional references; and

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

SECTION 15.  Subchapter J, Chapter 1701, Occupations Code, is amended by adding Section 1701.4522 to read as follows:

Sec. 1701.4522.  MISCONDUCT INVESTIGATION AND HIRING PROCEDURES. (a) The commission shall 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)  The policy adopted under this section must:

(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 the commission;

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

(D)  complete an administrative investigation of alleged misconduct and prepare and submit to the commission a summary report on the investigation, including the disposition of the investigation and any informational findings, in a format prescribed by the commission, 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 the commission each report of a completed investigation;

(2)  provide that an investigation into the alleged misconduct of a license holder may not be 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 the commission 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 the commission 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)  A law enforcement agency shall adopt the model policy described by Subsection (a) or a substantively similar policy. A policy adopted by a law enforcement agency under this section must be submitted to the commission and the commission shall maintain a copy of the policy.

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

SECTION 16.  Section 1701.453, Occupations Code, is amended to read as follows:

Sec. 1701.453.  MAINTENANCE OF REPORTS [~~AND STATEMENTS~~]. The commission shall maintain a copy of each report [~~and statement~~] submitted to the commission under this subchapter until at least the 10th anniversary of the date on which the report [~~or statement~~] is submitted.

SECTION 17.  Subchapter J, Chapter 1701, Occupations Code, is amended by adding Section 1701.4535 to read as follows:

Sec. 1701.4535.  PERSONNEL FILE.  (a)  The commission shall adopt a model policy regarding personnel files maintained with respect to a license holder. The policy must:

(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 may not be 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 shall, not later than the 30th day after the date of the inclusion, notify the affected license holder by certified mail; and

(ii)  the license holder may, 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 may not be 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 may charge the license holder a reasonable fee not to exceed the actual cost of any copies described by Paragraph (D).

(b)  A law enforcement agency shall adopt the model policy described by Subsection (a) or a substantively similar policy. A policy adopted by a law enforcement agency under this section must be submitted to the commission, and the commission shall maintain a copy of the policy.

(c)  Except as provided by Subsections (d) and (e), a law enforcement agency may not release 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. The agency shall refer the person or agency requesting the information to the agency head or the head's designee.

(d)  A law enforcement agency shall provide a license holder's personnel file to the commission:

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

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

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

SECTION 18.  Section 1701.456(a), Occupations Code, is amended to read as follows:

(a)  The commission is not liable for civil damages for providing information contained in a report [~~or statement~~] maintained by the commission under this subchapter if the commission released the information as provided by this subchapter.

SECTION 19.  The heading to Subchapter K, Chapter 1701, Occupations Code, is amended to read as follows:

SUBCHAPTER K. DISCIPLINARY GROUNDS AND PROCEDURES

SECTION 20.  Section 1701.501, Occupations Code, is amended by adding Subsection (a-1) to read as follows:

(a-1)  Except with respect to an officer elected under the Texas Constitution, the commission shall 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.  Subchapter K, Chapter 1701, Occupations Code, is amended by adding Section 1701.5011 to read as follows:

Sec. 1701.5011.  EMERGENCY SUSPENSION. (a) The commission shall adopt rules specifying the circumstances under which the commission may 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)  An order suspending a license under this section must state the length of the suspension in the order.

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

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

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

SECTION 22.  The following provisions of the Occupations Code are repealed:

(1)  Sections 1701.452(b) and (c);

(2)  Section 1701.4521; and

(3)  Section 1701.4525.

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

(b)  A member of the Texas Commission on Law Enforcement 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. A commission member described by this subsection may not vote, deliberate, or be counted as a member in attendance at a meeting of the commission held on or after December 1, 2023, until the member completes the additional training.

SECTION 24.  (a) Not later than March 1, 2024, the Texas Commission on Law Enforcement shall:

(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, 1701.171, 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 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 shall adopt the policies required by Sections 1701.167, 1701.171, 1701.4522, and 1701.4535, Occupations Code, as added by this Act.

(b)  Not later than September 1, 2024, the Texas Commission on Law Enforcement shall establish the database containing officer personal service reports as required by Section 1701.205, Occupations Code, as added by this Act.

SECTION 25.  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, apply only with respect to a person hired on or after March 1, 2024. A person hired 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 26.  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. 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.  Section 1701.3135, Occupations Code, as added by this Act, applies only to an application for an officer license submitted under Chapter 1701, Occupations Code, on or after the effective date of this Act. An application submitted 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 28.  Section 1701.501(a-1), Occupations Code, as added by this Act, applies only to conduct that occurs on or after the effective date of this Act. Conduct that occurs before the effective date of this Act is governed by the law in effect on the date the conduct occurred, and the former law is continued in effect for that purpose.

SECTION 29.  This Act takes effect September 1, 2023.