

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

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

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

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

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

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

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

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

24           Sec. 143.0511. PROGRESSIVE DISCIPLINARY MATRIX. (a) The  
25 commission shall implement a progressive disciplinary matrix for  
26 infractions committed by police officers that consists of a range  
27 of progressive disciplinary actions applied in a standardized way

1 based on the nature of the infraction and the officer's prior  
2 conduct record, including removal, suspension, change of duty or  
3 assignment, demotion, deduction of points from a promotional  
4 examination grade, retraining, a written warning, or a written  
5 reprimand.

6 (b) The progressive disciplinary matrix must include:

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

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

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

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

19 (a) In addition to the other notice requirements prescribed  
20 by this chapter, the written notice for a promotional bypass or the  
21 letter of disciplinary action, as applicable, issued to a fire  
22 fighter or police officer must state that in an appeal of an  
23 indefinite suspension, a suspension, a promotional bypass, ~~or~~ a  
24 recommended demotion, or, if issued to a police officer, any other  
25 disciplinary sanction, the appealing fire fighter or police officer  
26 may elect to appeal to an independent third party hearing examiner  
27 instead of to the commission. The letter must also state that if the

1 fire fighter or police officer elects to appeal to a hearing  
2 examiner, the person waives all rights to appeal to a district court  
3 except as provided by Subsection (j).

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

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

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

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

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

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

26 (2) may not conflict with and does not supersede a  
27 statute, order, ordinance, or rule concerning the disciplinary

1 actions that may be imposed on a police officer under the  
2 progressive disciplinary matrix.

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

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

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

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

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

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

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

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

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

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

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

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

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

25       Sec. 174.024. PROGRESSIVE DISCIPLINARY MATRIX FOR CERTAIN  
26 POLICE OFFICERS. (a) A municipal public employer shall implement a  
27 progressive disciplinary matrix, as described by Section 143.0511,

1 for municipal police officers if the municipality has not adopted  
2 Chapter 143.

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

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

10 SECTION 13. Sections 142.067(b), 143.307(d), 143.361(d),  
11 174.005(b), and 174.006(a-1), Local Government Code, as added by  
12 this Act, apply only to an agreement entered into or renewed on or  
13 after March 1, 2024. An agreement entered into or renewed before  
14 March 1, 2024, is governed by the law in effect on the date the  
15 agreement was entered into or renewed, and the former law is  
16 continued in effect for that purpose.

17 SECTION 14. (a) The Bill Blackwood Law Enforcement  
18 Management Institute of Texas shall consult with law enforcement  
19 agencies of all sizes, law enforcement associations, law  
20 enforcement training experts, and appropriate organizations  
21 engaged in the development of law enforcement policy to develop a  
22 model progressive disciplinary matrix, as defined by Section  
23 143.003(6), Local Government Code, as added by this Act, and  
24 associated training materials regarding the application of that  
25 matrix. The institute shall provide for a period of public comment  
26 before adopting the model progressive disciplinary matrix and  
27 training materials.

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

5           (c) This section expires September 1, 2024.

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