

By: Paxton, et al.

S.B. No. 1445

A BILL TO BE ENTITLED

AN ACT

relating to the continuation and functions of the Texas Commission on Law Enforcement.

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

SECTION 1. 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, 2035 [~~2023~~].

SECTION 2. 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;

1 (5) [~~(4)~~] the requirements of:

2 (A) laws relating to open meetings, public
3 information, administrative procedure, and disclosing conflicts of
4 interest; and

5 (B) other laws applicable to members of a state
6 policy-making body in performing their duties; and

7 (6) [~~(5)~~] any applicable ethics policies adopted by
8 the commission or the Texas Ethics Commission.

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

16 SECTION 3. Section 1701.151, Occupations Code, is amended
17 to read as follows:

18 Sec. 1701.151. GENERAL POWERS OF COMMISSION; RULEMAKING
19 AUTHORITY. The commission may:

20 (1) adopt rules for the administration of this chapter
21 and for the commission's internal management and control;

22 (2) establish minimum standards relating to
23 competence and reliability, including education, training,
24 physical, and mental [~~and moral~~] standards, for licensing as an
25 officer, county jailer, public security officer, or
26 telecommunicator;

27 (3) report to the governor and legislature on the

1 commission's activities, with recommendations on matters under the
2 commission's jurisdiction, and make other reports that the
3 commission considers desirable;

4 (4) require a state agency or a county, special
5 district, or municipality in this state that employs officers,
6 telecommunicators, or county jailers to submit reports and
7 information;

8 (5) contract as the commission considers necessary for
9 services, facilities, studies, and reports required for:

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

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

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

18 SECTION 4. Section 1701.163, Occupations Code, is amended
19 to read as follows:

20 Sec. 1701.163. MINIMUM STANDARDS FOR LAW ENFORCEMENT
21 AGENCIES [~~INFORMATION PROVIDED BY COMMISSIONING ENTITIES~~]. [~~(a)~~
22 ~~This section applies only to an entity authorized by statute or by~~
23 ~~the constitution to create a law enforcement agency or police~~
24 ~~department and commission, appoint, or employ officers that first~~
25 ~~creates a law enforcement agency or police department and first~~
26 ~~begins to commission, appoint, or employ officers on or after~~
27 ~~September 1, 2009.~~

1 ~~[(b)]~~ The ~~[entity shall submit to the]~~ commission, with
2 input from an advisory committee, shall by rule establish minimum
3 standards with respect to the creation or operation of a law
4 enforcement agency, including ~~[on creation of the law enforcement~~
5 ~~agency or police department information regarding]:~~

6 (1) a determination regarding the need for creating
7 the ~~[law enforcement]~~ agency ~~[or police department]~~ in the
8 community;

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

11 (3) the physical resources available to officers,
12 which may differ based on the size of the law enforcement agency,
13 including:

14 (A) duty firearms, including patrol rifles and
15 shotguns;

16 (B) less lethal force weapons, including a
17 requirement of at least one per officer on duty;

18 (C) effective communications equipment;

19 (D) protective equipment, including a
20 requirement of at least one protective vest per officer on duty;

21 (E) officer uniforms; and

22 (F) patrol vehicles and associated equipment;

23 (4) the physical facilities of ~~[that]~~ the ~~[law~~
24 ~~enforcement]~~ agency ~~[or police department will operate]~~, including
25 any ~~[descriptions of the]~~ evidence room, dispatch area, or ~~[and]~~
26 public area;

27 (5) the ~~[law enforcement]~~ policies of the ~~[law~~

- 1 ~~enforcement]~~ agency [~~or police department]~~, including policies on:
- 2 (A) use of force;
 - 3 (B) vehicle pursuit;
 - 4 (C) professional conduct of officers;
 - 5 (D) domestic abuse protocols;
 - 6 (E) response to missing persons;
 - 7 (F) supervision of part-time officers; [~~and]~~
 - 8 (G) impartial policing;
 - 9 (H) active shooters; and
 - 10 (I) barricaded subjects;
- 11 (6) the administrative structure of the [~~law~~
- 12 ~~enforcement]~~ agency [~~or police department]~~;
- 13 (7) liability insurance; and
- 14 (8) any other standard [~~information]~~ the commission
- 15 considers necessary [~~requires by rule~~].

16 SECTION 5. Subchapter D, Chapter 1701, Occupations Code, is

17 amended by adding Sections 1701.165, 1701.166, 1701.167, 1701.168,

18 and 1701.169 to read as follows:

19 Sec. 1701.165. ADVISORY COMMITTEES. (a) The commission by

20 rule may establish advisory committees to make recommendations to

21 the commission on programs, rules, and policies administered by the

22 commission.

23 (b) In establishing an advisory committee under this

24 section, the commission shall adopt rules, including rules

25 regarding:

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

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

3 (3) qualifications for committee membership;

4 (4) appointment procedures for members;

5 (5) terms of service for members;

6 (6) training requirements for members;

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

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

11 (9) policies to ensure the committee does not violate
12 any provision of Chapter 551, Government Code, applicable to the
13 commission or the committee.

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

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

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

24 (1) Travis County; or

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

27 (d) The court shall order compliance with the subpoena if

1 the court finds that good cause exists to issue the subpoena.

2 Sec. 1701.167. EXAMINATION OF LICENSE HOLDER. (a) The
3 commission shall adopt rules specifying the circumstances under
4 which the commission may request that a license holder submit to an
5 examination described by Section 1701.306(a) by a psychologist,
6 psychiatrist, or physician selected by the commission to determine
7 whether the license holder continues to meet the standards required
8 by that section.

9 (b) If the license holder refuses to submit to the
10 examination, the commission shall issue an order requiring the
11 person to show cause for the person's refusal at a hearing on the
12 order scheduled for not later than the 30th day after the date
13 notice is served on the person. The commission shall provide notice
14 under this section by personal service or by registered mail,
15 return receipt requested.

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

21 (d) Unless the request is withdrawn, the commission may
22 suspend the license of a person who refuses to submit to the
23 examination.

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

26 (f) If the results of an examination under this section show
27 that the person does not meet the standards of Section 1701.306(a),

1 the commission shall suspend the person's license.

2 (g) Records relating to a request or order of the commission
3 or a hearing or examination conducted under this section,
4 including, if applicable, the identity of the person notifying the
5 commission that a license holder may not meet the standards
6 required by Section 1701.306(a), are confidential and not subject
7 to disclosure under Chapter 552, Government Code.

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

12 Sec. 1701.168. REFUSAL OR FAILURE OF EXAMINATION. (a)
13 Except as provided by Subsection (b), a law enforcement agency
14 shall report to the commission a license holder who refuses to
15 submit to or fails an examination ordered under Section 1701.167.

16 (b) A law enforcement agency is not required to report a
17 failed examination under Subsection (a) if the license holder
18 submits to and successfully completes a treatment program within a
19 reasonable time, as prescribed by commission rule. A law
20 enforcement agency may assign a license holder who submits to a
21 treatment program under this subsection to a non-law enforcement
22 role for the duration of the treatment program and until the license
23 holder passes the examination.

24 Sec. 1701.169. PREEMPLOYMENT DATABASE. The commission
25 shall designate one or more national law enforcement databases that
26 a law enforcement agency must access to complete the preemployment
27 background check required under Sections 1701.303(a) and

1 1701.451(a). A database designated under this section must:

2 (1) contain records related to a person's previous law
3 enforcement employment or experience, including any:

4 (A) commendations or awards;

5 (B) misconduct or disciplinary records; and

6 (C) certifications or licenses held;

7 (2) be maintained by the federal government or a
8 nationally recognized law enforcement accreditation association;

9 and

10 (3) provide a process for a person to contest or amend
11 any information maintained in the database relating to the person.

12 SECTION 6. Section 1701.202, Occupations Code, is amended
13 by amending Subsection (b) and adding Subsection (d) to read as
14 follows:

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

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

25 SECTION 7. Section 1701.203(c), Occupations Code, is
26 amended to read as follows:

27 (c) The commission shall periodically notify the complaint

1 parties [~~to the complaint~~] of the status of the complaint until
2 final disposition unless the notice would jeopardize an
3 investigation.

4 SECTION 8. Subchapter E, Chapter 1701, Occupations Code, is
5 amended by adding Section 1701.205 to read as follows:

6 Sec. 1701.205. OFFICER PROFILES. (a) The commission shall
7 create a public database containing profiles of each officer
8 licensed under this chapter. A profile must:

9 (1) include the information required by Subsection
10 (b); and

11 (2) be compiled in a format that makes the information
12 contained in the profile readily available to the public.

13 (b) Except as otherwise provided by this section, a profile
14 must contain the following information with respect to each
15 officer:

16 (1) the date the officer completed the basic training
17 course;

18 (2) whether the officer is in compliance with
19 continuing education requirements and the continuing education
20 courses completed;

21 (3) the total hours of training the officer has
22 completed; and

23 (4) the date the officer's license was issued.

24 (c) The commission shall adopt rules to exclude from the
25 database profiles for certain officers if including the profile
26 would create a safety risk for the officer based on the officer's
27 position or duties, including the profiles of undercover officers

1 and officers involved in active narcotics operations.

2 SECTION 9. Section 1701.253, Occupations Code, is amended
3 by adding Subsection (a-1) and amending Subsections (g), (h), (i),
4 (j), (l), (m), (o), and (p) to read as follows:

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

8 (g) As part of the minimum curriculum requirements, the
9 commission shall establish a statewide comprehensive education and
10 training program on asset forfeiture under Chapter 59, Code of
11 Criminal Procedure, for officers licensed under this chapter. [~~An
12 officer shall complete a program established under this subsection
13 not later than the second anniversary of the date the officer is
14 licensed under this chapter or the date the officer applies for an
15 intermediate proficiency certificate, whichever date is earlier.~~]

16 (h) As part of the minimum curriculum requirements, the
17 commission shall establish a statewide comprehensive education and
18 training program on racial profiling for officers licensed under
19 this chapter. [~~An officer shall complete a program established
20 under this subsection not later than the second anniversary of the
21 date the officer is licensed under this chapter or the date the
22 officer applies for an intermediate proficiency certificate,
23 whichever date is earlier.~~]

24 (i) As part of the minimum curriculum requirements, the
25 commission shall establish a statewide comprehensive education and
26 training program on identity theft under Section 32.51, Penal Code,
27 for officers licensed under this chapter. [~~An officer shall~~

1 ~~complete a program established under this subsection not later than~~
2 ~~the second anniversary of the date the officer is licensed under~~
3 ~~this chapter or the date the officer applies for an intermediate~~
4 ~~proficiency certificate, whichever date is earlier.]~~

5 (j) As part of the minimum curriculum requirements, the
6 commission shall require an officer to complete a 40-hour statewide
7 education and training program on de-escalation and crisis
8 intervention techniques to facilitate interaction with persons
9 with mental impairments. ~~[An officer shall complete the program~~

10 ~~not later than the second anniversary of the date the officer is~~
11 ~~licensed under this chapter or the date the officer applies for an~~
12 ~~intermediate proficiency certificate, whichever date is earlier.]~~

13 An officer may not satisfy the requirements of this subsection or
14 Section 1701.402(g) by taking an online course on de-escalation and
15 crisis intervention techniques to facilitate interaction with
16 persons with mental impairments.

17 (l) As part of the minimum curriculum requirements, the
18 commission shall require an officer licensed by the commission on
19 or after January 1, 2016, to complete a canine encounter training
20 program established by the commission under Section 1701.261. ~~[An~~
21 ~~officer shall complete the program not later than the second~~
22 ~~anniversary of the date the officer is licensed under this chapter~~
23 ~~unless the officer completes the program as part of the officer's~~
24 ~~basic training course.]~~

25 (m) As part of the minimum curriculum requirements, the
26 commission shall establish a statewide comprehensive education and
27 training program on procedures for interacting with drivers who are

1 deaf or hard of hearing, as defined by Section 81.001, Human
2 Resources Code, including identifying specialty license plates
3 issued to individuals who are deaf or hard of hearing under Section
4 504.204, Transportation Code. ~~[An officer shall complete a program
5 established under this subsection not later than the second
6 anniversary of the date the officer is licensed under this chapter
7 or the date the officer applies for an intermediate proficiency
8 certificate, whichever date is earlier.]~~

9 (o) As part of the minimum curriculum requirements, the
10 commission shall require an officer to complete the civilian
11 interaction training program developed under Section 1701.268. ~~[An
12 officer shall complete the program not later than the second
13 anniversary of the date the officer is licensed under this chapter
14 unless the officer completes the program as part of the officer's
15 basic training course.]~~

16 (p) As part of the minimum curriculum requirements, the
17 commission shall require an officer to complete the basic education
18 and training program on the trafficking of persons developed under
19 Section 1701.258(a). ~~[An officer shall complete the program not
20 later than the second anniversary of the date the officer is
21 licensed under this chapter unless the officer completes the
22 program as part of the officer's basic training course.]~~

23 SECTION 10. Section 1701.303(a), Occupations Code, is
24 amended to read as follows:

25 (a) Before a [A] law enforcement agency or governmental
26 entity ~~[that]~~ hires a person for whom a license is sought, the law
27 enforcement agency must:

1 (1) review any information relating to the person
2 available in a database designated by the commission under Section
3 1701.169; and

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

6 SECTION 11. Section 1701.404(b), Occupations Code, is
7 amended to read as follows:

8 (b) The commission may certify a sheriff, sheriff's deputy,
9 constable, other peace officer, county jailer, or justice of the
10 peace as a special officer for offenders with mental impairments if
11 the person:

12 (1) completes a training course in emergency first aid
13 and lifesaving techniques approved by the commission;

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

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

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

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

25 SECTION 12. Section 1701.451(a), Occupations Code, is
26 amended to read as follows:

27 (a) Before a law enforcement agency may hire a person

1 licensed under this chapter, the agency must, on a form and in the
2 manner prescribed by the commission:

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

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

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

12 (A) contacted each entity or individual
13 necessary to obtain the information required to be reviewed under
14 this section; and

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

17 (i) personnel files and other employee
18 records from each previous law enforcement agency employer,
19 including the employment application submitted to the previous
20 employer;

21 (ii) employment termination reports
22 maintained by the commission under this subchapter;

23 (iii) service records maintained by the
24 commission;

25 (iv) proof that the person meets the
26 minimum qualifications for enrollment in a training program under
27 Section [1701.251\(a\)](#);

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

4 (vi) criminal history record information;

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

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

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

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

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

18 (xii) information on the person's law
19 enforcement background as available through a database designated
20 by the commission under Section 1701.169.

21 SECTION 13. Section 1701.453, Occupations Code, is amended
22 to read as follows:

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

1 SECTION 14. Section 1701.456(a), Occupations Code, is
2 amended to read as follows:

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

7 SECTION 15. The heading to Subchapter K, Chapter 1701,
8 Occupations Code, is amended to read as follows:

9 SUBCHAPTER K. DISCIPLINARY GROUNDS AND PROCEDURES

10 SECTION 16. Subchapter K, Chapter 1701, Occupations Code,
11 is amended by adding Section 1701.5011 to read as follows:

12 Sec. 1701.5011. EMERGENCY SUSPENSION. (a) The commission
13 shall adopt rules specifying the circumstances under which the
14 commission may issue an emergency order, without a hearing,
15 suspending a person's license for a period not to exceed 90 days
16 after determining that the person constitutes an imminent threat to
17 the public health, safety, or welfare.

18 (b) An order suspending a license under this section must
19 state the length of the suspension in the order.

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

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

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

8 SECTION 17. The following provisions of the Occupations
9 Code are repealed:

10 (1) Sections 1701.452(b) and (c);

11 (2) Section 1701.4521; and

12 (3) Section 1701.4525.

13 SECTION 18. (a) Except as provided by Subsection (b) of
14 this section, Section 1701.059, Occupations Code, as amended by
15 this Act, applies to a member of the Texas Commission on Law
16 Enforcement appointed before, on, or after the effective date of
17 this Act.

18 (b) A member of the Texas Commission on Law Enforcement who,
19 before the effective date of this Act, completed the training
20 program required by Section 1701.059, Occupations Code, as that law
21 existed before the effective date of this Act, is only required to
22 complete additional training on the subjects added by this Act to
23 the training program required by Section 1701.059, Occupations
24 Code. A commission member described by this subsection may not
25 vote, deliberate, or be counted as a member in attendance at a
26 meeting of the commission held on or after December 1, 2023, until
27 the member completes the additional training.

1 SECTION 19. (a) Not later than March 1, 2024, the Texas
2 Commission on Law Enforcement shall:

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

6 (2) designate the database as required by Section
7 1701.169, Occupations Code, as added by this Act.

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

12 SECTION 20. Sections 1701.303(a) and 1701.451(a),
13 Occupations Code, as amended by this Act, apply only with respect to
14 a person hired on or after March 1, 2024. A person hired before
15 March 1, 2024, is governed by the law in effect immediately before
16 the effective date of this Act, and the former law is continued in
17 effect for that purpose.

18 SECTION 21. The changes in law made by this Act to
19 Subchapter J, Chapter 1701, Occupations Code, apply only to a
20 report required to be submitted under Section 1701.452, Occupations
21 Code, as amended by this Act, regarding a separation of a license
22 holder that occurs on or after March 1, 2024. A separation that
23 occurs before March 1, 2024, is governed by the law in effect
24 immediately before the effective date of this Act, and the former
25 law is continued in effect for that purpose.

26 SECTION 22. This Act takes effect September 1, 2023.