

BILL ANALYSIS

S.B. 781

By: King

Homeland Security, Public Safety & Veterans' Affairs
Committee Report (Unamended)

BACKGROUND AND PURPOSE

Under current state law, there are no uniform rules that apply to certain information maintained by law enforcement agencies on employees licensed by the Texas Commission on Law Enforcement (TCOLE). There is also no uniform standard on whether certain information is public or confidential. In municipalities covered by municipal civil service, Chapter 143, Local Government Code, there are specific rules in statute that set out what information is to be maintained in a peace officer's personnel file and what other information should be kept in a department file for the department's own use. Under civil service there is a clear delineation between what information is public and what information is confidential. Also, personnel files maintained by the Department of Public Safety (DPS) on DPS-commissioned officers are afforded certain confidentiality protections under current law.

During the Sunset Review process for TCOLE last session, Section 1701.4535, Occupations Code, was passed that required TCOLE to develop a model policy on personnel files. The bill sponsor has informed the committee that the bill language mirrors the model policy developed by TCOLE during the interim. The bill sponsor has also informed the committee that this bill will address how law enforcement agencies should handle certain information not in an employee's personnel file under the model policy, including sensitive information, such as information relating to the family members of officers, hiring documents, and complaints against officers for which there was insufficient evidence to sustain a charge of misconduct.

S.B. 781 seeks to address these issues by requiring the head of a law enforcement agency or the head's designee to maintain a "department file" on each agency employee who holds a TCOLE-issued license and by making those department files confidential under state public information law. The "department file" would be designated for the agency's use. Under the bill, law enforcement agency records on agency employees will maintain a uniform level of confidentiality across the state and the confidentiality protections will not depend on which political subdivision or agency employs an employee licensed by TCOLE. The bill would also ensure that information held in a department file by one department is available to other law enforcement agencies and that information must also be provided to TCOLE in accordance with existing law or at their request.

CRIMINAL JUSTICE IMPACT

It is the committee's opinion that this bill does not expressly create a criminal offense, increase the punishment for an existing criminal offense or category of offenses, or change the eligibility of a person for community supervision, parole, or mandatory supervision.

RULEMAKING AUTHORITY

It is the committee's opinion that this bill does not expressly grant any additional rulemaking authority to a state officer, department, agency, or institution.

ANALYSIS

S.B. 781 amends the Occupations Code to require the head of a law enforcement agency or the head's designee to maintain a department file on each holder of a license issued by the Texas Commission on Law Enforcement (TCOLE) employed by the agency. The bill defines "department file" as a file maintained by a law enforcement agency for each license holder employed by the agency for the agency's use. The bill requires the department file to contain any letter, memorandum, or document relating to the license holder not included in a personnel file maintained under a policy adopted by the agency as required by applicable state law, including any letter, memorandum, or document relating to alleged misconduct by the license holder for which the agency determines there is insufficient evidence to sustain the charge of misconduct.

S.B. 781 entitles a law enforcement agency hiring a license holder to view the contents of the license holder's department file, as provided by the preemployment procedure under state law, and requires an agency to provide contents from a license holder's department file to TCOLE in accordance with the following:

- a request by TCOLE as part of an ongoing investigation relating to the license holder; or
- the law enforcement agency's policy adopted in compliance with the requirement under applicable state law for an agency, under a misconduct investigation and hiring policy, to complete an administrative investigation of alleged misconduct by a license holder employed by the agency and to prepare and submit to TCOLE a summary report on the investigation, including the disposition of the investigation and any informational findings, in a format prescribed by TCOLE, 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.

The bill subjects a department file maintained under the bill's provisions to disclosure under Code of Criminal Procedure provisions relating to discovery procedures or Government Code provisions relating to an independent investigation of a death occurring in a county jail conducted by the Commission on Jail Standards. The bill authorizes a law enforcement agency to disclose information contained in a license holder's department file if the disclosure is permitted under a meet and confer agreement entered into before September 1, 2025. Except as provided by these provisions, the bill prohibits an agency from releasing any information contained in a license holder's department file to any other agency or person requesting information relating to the license holder. The bill requires the agency to refer the person or agency requesting the information to the agency head or the head's designee. A department file maintained under the bill's provisions is confidential and not subject to disclosure under state public information law.

EFFECTIVE DATE

September 1, 2025.