By: Miles S.B. No. 405

A BILL TO BE ENTITLED

AN ACT

relating to municipal civilian complaint review boards for peace officer misconduct in certain municipalities.

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

SECTION 1. Subtitle A, Title 5, Local Government Code, is amended by adding Chapter 143A to read as follows:

CHAPTER 143A. MUNICIPAL CIVILIAN COMPLAINT REVIEW BOARDS FOR PEACE OFFICER MISCONDUCT IN CERTAIN MUNICIPALITIES

SUBCHAPTER A. GENERAL PROVISIONS

Sec. 143A.001. APPLICABILITY. This chapter applies only to a municipality with a population of 200,000 or more.

Sec. 143A.002. DEFINITIONS. In this chapter:

(1) "Board" means a municipal civilian complaint review board for peace officer misconduct.

(2) "Peace officer" means a peace officer described by Article 2A.001, Code of Criminal Procedure, appointed or employed to serve as a peace officer for a municipality.

Sec. 143A.003. MUNICIPAL CIVILIAN COMPLAINT REVIEW BOARD FOR PEACE OFFICER MISCONDUCT. A board is established in each municipality subject to this chapter to investigate complaints alleging peace officer misconduct.

SUBCHAPTER B. MUNICIPAL CIVILIAN COMPLAINT REVIEW BOARD FOR PEACE OFFICER MISCONDUCT

Sec. 143A.051. COMPOSITION OF BOARD. A board consists of

five public members appointed as follows:

(1) two members appointed by the presiding officer of the governing body of the municipality, one of whom must be appointed from a list of municipal residents submitted to the presiding officer by the governing body of the municipality;

(2) one member appointed by the county judge of the county in which the municipality is wholly or primarily located;

(3) one member appointed by the police chief of the municipal police department; and

(4) one member appointed by the commissioners court of the county in which the municipality is wholly or primarily located.

Sec. 143A.052. INELIGIBILITY. A person is ineligible to serve as a board member if the person:

(1) is a municipal employee;

(2) holds a public office; or

(3) has experience as a law enforcement professional, including as:

(A) a peace officer;

(B) a criminal investigator;

(C) a special agent; or

(D) a managerial or supervisory employee with substantial policy discretion on law enforcement matters in a federal, state, or local law enforcement agency, other than as an attorney in a prosecutorial agency.

Sec. 143A.053. TERMS. A board member is appointed for a two-year term.

Sec. 143A.054. PRESIDING OFFICER. The presiding officer of the governing body of the municipality shall designate a board member to serve as the presiding officer of the board at the pleasure of the presiding officer of the governing body of the municipality.

Sec. 143A.055. GROUNDS FOR REMOVAL OF BOARD MEMBER. (a) A board member may be removed from a board if the member:

(1) is ineligible for membership under Section 143A.052;

(2) cannot discharge the member's duties for a substantial part of the member's term because of illness or disability; or

(3) is absent from more than half of the regularly scheduled board meetings during a calendar year without an excuse approved by a majority vote of the board.

(b) The validity of an action of a board is not affected by the fact that it is taken when a ground for removal of a board member exists.

(c) If the executive director of a board or another board member has knowledge that a potential ground for removal exists, the executive director or board member shall notify the presiding officer of the board of the potential ground. The presiding officer shall then notify the presiding officer of the governing body of the municipality that a potential ground for removal exists. If the potential ground for removal involves the presiding officer of the board, the executive director or board member shall notify the next highest ranking officer of the board, who shall then notify the

presiding officer of the governing body of the municipality that a potential ground for removal exists.

Sec. 143A.056. VACANCY. A vacancy on a board shall be filled for the unexpired term in the same manner as the original appointment.

Sec. 143A.057. COMPENSATION; EXPENSES. (a) A board member is entitled to a per diem of $150 for each day the member engages in board business. The total per diem a board member may receive during a fiscal year may not exceed $5,000.

(b) A board member is entitled to reimbursement for actual and necessary expenses incurred in performing the duties of the board.

SUBCHAPTER C. GENERAL POWERS AND DUTIES

Sec. 143A.101. EXECUTIVE DIRECTOR. A board may employ an executive director as necessary to administer the policies of the board.

Sec. 143A.102. PERSONNEL. A board may employ personnel as necessary to exercise its powers and fulfill its duties under this chapter.

Sec. 143A.103. RULES. A board may adopt rules as necessary to implement this chapter.

SUBCHAPTER D. INVESTIGATION OF COMPLAINTS

Sec. 143A.151. INVESTIGATION OF COMPLAINTS. A board may investigate a complaint that alleges peace officer misconduct involving:

(1) excessive use of force;

(2) improper use of power to threaten, intimidate, or

otherwise mistreat a member of the public;

(3) a threat of force;

(4) an unlawful act, search, or seizure; or

(5) other abuses of authority.

Sec. 143A.152. FILING OR BOARD INITIATION OF COMPLAINT. A complaint may be:

(1) filed under Section 143A.153; or

(2) initiated by a majority vote of the board.

Sec. 143A.153. COMPLAINT ALLEGING MISCONDUCT. (a) A person may file a complaint with a board alleging peace officer misconduct.

(b) A complaint must:

(1) be in writing;

(2) allege the peace officer engaged in misconduct described by Section 143A.151; and

(3) describe the alleged misconduct.

(c) A person may file a complaint regardless of whether the person is the alleged victim of the misconduct.

Sec. 143A.154. COMPLAINT REVIEW PROCEDURE. A board shall:

(1) develop a system to promptly and efficiently act on a complaint filed with or initiated by the board;

(2) maintain information regarding:

(A) the parties to each complaint;

(B) the subject matter of each complaint;

(C) the results of the investigation of a complaint; and

(D) the disposition of each complaint;

(3) make information available describing the board's procedures for complaint investigation and resolution;

(4) take reasonable measures to ensure the confidentiality of all complainants;

(5) periodically notify the parties to the complaint in writing of the status of the complaint; and

(6) provide the parties to the complaint with the name, address, and telephone number of an individual to contact in order to give or obtain information regarding the complaint.

Sec. 143A.155. SUBPOENAS. (a) A board may issue a subpoena to compel the attendance of a witness or the production of any book, record, or other document reasonably necessary to conduct an investigation. A subpoena must relate to a matter under investigation by the board.

(b) If a person refuses to comply with a subpoena issued under this section, the board may apply to a court for an order to compel the person to comply with the subpoena. Failure to comply with the court order is punishable as contempt.

Sec. 143A.156. DISMISSAL OF CERTAIN ALLEGATIONS; GROUNDS FOR CLOSING INVESTIGATION. A board may dismiss an allegation in a complaint that the board elects to investigate under Section 143A.151 and close an investigation without reaching a final determination if the person who filed the complaint or the alleged victim of the misconduct that is the subject of the complaint requests the dismissal.

Sec. 143A.157. INVESTIGATION OF COMPLAINT BY MUNICIPAL ATTORNEY. (a) A board shall forward each complaint that the board

elects to investigate under Section 143A.151 to the municipal attorney.

(b) The municipal attorney shall investigate the complaint by:

(1) interviewing and obtaining a statement from:

(A) the complainant;

(B) each peace officer who is the subject of the complaint; and

(C) each witness to the alleged misconduct; and

(2) obtaining any documentary or other evidence relevant to the investigation.

(c) The municipal attorney shall complete the investigation of a complaint not later than the 120th day after the date the municipal attorney receives the complaint from the board.

Sec. 143A.158. COMPLAINT DETERMINATION AFTER INVESTIGATION. (a) After an investigation of a complaint is complete, the municipal attorney shall forward the results of the investigation to the board or a panel of at least three board members. The board or panel shall review the case and make a determination on each allegation in the complaint that has not been dismissed by the board. The determination of the board or panel must be made not later than the 180th day after the date the board receives the complaint.

(b) The board or panel shall state the board's or panel's determination regarding each allegation in a complaint as:

(1) substantiated if the board or panel finds by a preponderance of the evidence that the person who is the subject of

the complaint committed the alleged misconduct;

(2) exonerated if the board or panel finds by a preponderance of the evidence that the person who is the subject of the complaint engaged in the action alleged in the complaint but the action was not misconduct because the action was lawful and proper;

(3) unfounded if the board or panel finds by a preponderance of the evidence that the person who is the subject of the complaint did not commit the alleged misconduct;

(4) unsubstantiated if the board or panel finds that the available evidence is insufficient to make a finding by a preponderance of the evidence under Subdivision (1), (2), or (3); or

(5) nonactionable if the board or panel finds that the person who is the subject of the complaint is no longer a peace officer or cannot be identified.

Sec. 143A.159. NOTICE OF BOARD'S OR PANEL'S DETERMINATION. (a) A board shall notify the parties to the complaint of the board's or panel's determination.

(b) The board shall notify the employer of the peace officer who is the subject of the complaint of the board's or panel's determination. If the board or panel finds that a complaint is substantiated, the board or panel may recommend an appropriate disciplinary action to the employer. If the employer fails to take disciplinary action against the peace officer before the 30th day after the date the board notifies the employer of the board's or panel's determination, the board shall forward the case to the district attorney, criminal district attorney, or county attorney,

as appropriate, or to the appropriate United States attorney.

SECTION 2. The initial members of a municipal civilian complaint review board for peace officer misconduct shall be appointed as provided by Section 143A.051, Local Government Code, as added by this Act, not later than October 1, 2027.

SECTION 3. The change in law made by Chapter 143A, Local Government Code, as added by this Act, applies only to misconduct that occurs on or after October 1, 2027. Misconduct that occurs before October 1, 2027, is governed by the law in effect when the misconduct occurred, and the former law is continued in effect for that purpose. For purposes of this section, misconduct occurred after October 1, 2027, if any act or omission constituting part of the misconduct occurred after that date.

SECTION 4. This Act takes effect September 1, 2027.