

BILL ANALYSIS

C.S.H.B. 245
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Homeland Security & Public Safety
Committee Report (Substituted)

BACKGROUND AND PURPOSE

Interested parties assert that while officer-involved injuries and deaths and certain injuries and deaths of peace officers are required to be reported by law, some law enforcement agencies are failing to do so. C.S.H.B. 245 seeks to address this noncompliance by penalizing law enforcement agencies that fail to comply with those reporting requirements following notice from the attorney general's office.

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

C.S.H.B. 245 amends the Code of Criminal Procedure to require the office of the attorney general to conduct an investigation after receiving a report or other information that a law enforcement agency failed to submit the report required following an incident during which a peace officer discharges a firearm causing injury or death to another or an incident in which, while a peace officer is performing an official duty, a person who is not a peace officer discharges a firearm and causes injury or death to the officer. The bill requires the office, on determining that a law enforcement agency failed to submit an applicable report, to provide notice of that failure to the agency and requires the notice to summarize the applicable reporting requirement and state that the agency may be subject to a civil penalty. The bill makes a law enforcement agency that fails to submit the required report on or before the seventh day after the date of receiving that notice liable for a civil penalty in the amount of \$1,000 for each day after the seventh day that the agency fails to submit the report.

C.S.H.B. 245 makes a law enforcement agency that has been liable for a civil penalty under the bill's provisions in the five-year period preceding the date the agency received the notice liable for a civil penalty for each day the agency fails to submit the required report beginning on the day after the date of receiving notice. The bill sets the amount of that penalty at \$10,000 for the first day and at \$1,000 for each additional day that the agency fails to submit the report. The bill authorizes the attorney general to sue to collect a civil penalty imposed under the bill's provisions and requires a civil penalty collected under the bill's provisions to be deposited to the credit of the compensation to victims of crime fund.

C.S.H.B. 245 removes the requirements for a law enforcement agency that maintains an Internet website to post on that website a copy of a report required following an incident during which a

peace officer discharges a firearm causing injury or death to another or an incident in which, while a peace officer is performing an official duty, a person who is not a peace officer discharges a firearm and causes injury or death to the officer.

EFFECTIVE DATE

September 1, 2017.

COMPARISON OF ORIGINAL AND SUBSTITUTE

While C.S.H.B. 245 may differ from the original in minor or nonsubstantive ways, the following comparison is organized and formatted in a manner that indicates the substantial differences between the introduced and committee substitute versions of the bill.

INTRODUCED

No equivalent provision.

No equivalent provision.

SECTION 1. Article 2.139, Code of Criminal Procedure, as added by Chapter 516 (H.B. 1036), Acts of the 84th Legislature, Regular Session, 2015, is

HOUSE COMMITTEE SUBSTITUTE

SECTION 1. Article 2.139(c), Code of Criminal Procedure, as added by Chapter 516 (H.B. 1036), Acts of the 84th Legislature, Regular Session, 2015, is amended to read as follows:

(c) Not later than the 30th day after the date of an officer-involved injury or death, the law enforcement agency employing an officer involved in the incident must complete and submit a written or electronic report, using the form created under Subsection (b), to the office of the attorney general [~~and, if the agency maintains an Internet website, post a copy of the report on the agency's website~~]. The report must include all information described in Subsection (b).

SECTION 2. Article 2.1395(b), Code of Criminal Procedure, is amended to read as follows:

(b) Not later than the 30th day after the date of the occurrence of an incident described by Subsection (a), the law enforcement agency employing the injured or deceased officer at the time of the incident must complete and submit a written or electronic report, using the form created under that subsection, to the office of the attorney general [~~and, if the agency maintains an Internet website, post a copy of the report on the agency's website~~]. The report must include all information described in Subsection (a).

SECTION 3. Chapter 2, Code of Criminal Procedure, is amended by adding Article 2.13951 to read as follows:

Art. 2.13951. NOTICE OF VIOLATION OF

amended by adding Subsection (f) to read as follows:

(f) The office of the attorney general shall conduct an investigation after receiving a report or other information that a law enforcement agency failed to submit a report required under this article. If the office determines that the law enforcement agency intentionally failed to submit the report, the law enforcement agency is not eligible to receive a grant from the criminal justice division of the governor's office for the 12-month period following the date on which the office made the determination.

No equivalent provision.

No equivalent provision.

REPORTING REQUIREMENTS FOR CERTAIN INJURIES OR DEATHS; CIVIL PENALTY. (a) The office of the attorney general shall conduct an investigation after receiving a report or other information that a law enforcement agency failed to submit a report required by Article 2.139 or 2.1395. If the office determines that the law enforcement agency failed to submit the report, the office shall provide notice of the failure to the agency. The notice must summarize the applicable reporting requirement and state that the agency may be subject to a civil penalty as provided by Subsection (b) or (c), as applicable.

(b) Except as provided by Subsection (c), a law enforcement agency that fails to submit the required report on or before the seventh day after the date of receiving notice under Subsection (a) is liable for a civil penalty in the amount of \$1,000 for each day after the seventh day that the agency fails to submit the report.

(c) Beginning on the day after the date of receiving notice under Subsection (a), a law enforcement agency that, in the five-year period preceding the date the agency received the notice, has been liable for a civil penalty under Subsection (b) or this subsection is liable for a civil penalty for each day the agency fails to submit the required report. The amount of a civil penalty under this subsection is \$10,000 for the first day and \$1,000 for each additional day that the agency fails to submit the report.

(d) The attorney general may sue to collect a civil penalty under this article.

(e) A civil penalty collected under this article shall be deposited to the credit of the compensation to victims of crime fund established under Subchapter B, Chapter 56.

SECTION 4. Article 2.139, Code of Criminal Procedure, as added by Chapter 1124 (H.B. 3791), Acts of the 84th Legislature, Regular Session, 2015, is redesignated as Article 2.1396, Code of Criminal Procedure.

SECTION 5. The changes in law made by this Act apply only to a report required to be submitted on or after the effective date of this Act. A report required to be submitted before the effective date of this Act is subject to the

law in effect at the time the report was required to be submitted, and the former law is continued in effect for that purpose.

No equivalent provision.

SECTION 6. To the extent of any conflict, this Act prevails over another Act of the 85th Legislature, Regular Session, 2017, relating to nonsubstantive additions to and corrections in enacted codes.

SECTION 2. This Act takes effect September 1, 2017.

SECTION 7. Same as introduced version.