

**SUBJECT:** Revising procedures for appealing certain disciplinary actions within DPS

**COMMITTEE:** Homeland Security and Public Safety — committee substitute recommended

**VOTE:** 9 ayes — White, Bowers, Goodwin, Harless, Hefner, E. Morales, Patterson, Schaefer, Tinderholt

0 nays

**WITNESSES:** For — Richard Jankovsky, DPS Officers Association; (*Registered, but did not testify*: Jennifer Szimanski, CLEAT; Frederick Frazier, Dallas Police Association FOP 716, Legislative Director State FOP; Mitch Landry, Texas Municipal Police Association)

Against — None

**BACKGROUND:** Government Code sec. 411.007 allows the public safety director to appoint, promote, reduce, suspend, or discharge any officer or employee of the Department of Public Safety (DPS). A commissioned officer may not be discharged, suspended, or demoted except for the violation of a specific Public Safety Commission rule.

A commissioned officer ordered discharged may appeal to the Public Safety Commission, and during the appeal the officer must be suspended without pay. A discharged commissioned officer is entitled to a public hearing before the commission, who must affirm or set aside the discharge on the basis of presented evidence. If the commission affirms the discharge, the officer may seek judicial review in a district court within 90 days after the commission affirms the discharge. The officer remains suspended without pay while the case is under judicial review.

Sec. 411.0072 governs appeals of disciplinary actions within DPS and requires the commission to establish procedures and practices governing such appeals.

Some have suggested guaranteeing an officer the right to present testimony and evidence in an appeal hearing and providing a path for an officer to be reinstated with back pay if the discharge was modified or set aside on the basis of the presented evidence.

**DIGEST:**

CSHB 2001 would allow the Public Safety Commission to modify, in addition to affirm or set aside, the discharge of a commissioned officer of the Department of Public Safety (DPS) during an appeal hearing of the disciplinary action.

If the commission set aside or modified the discharge, including by prescribing a period of suspension or a demotion, it could award back pay for all or part of the period during which the commissioned officer was suspended without pay.

The bill would require the procedures and practices established by the commission to govern the appeal of a disciplinary action within DPS to allow a commissioned officer who was the subject of a disciplinary action to present testimony and evidence at a hearing on the appeal.

The bill would take effect September 1, 2021.