

**SUBJECT:** Revising preemployment hiring procedures for law enforcement agencies

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

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

0 nays

**SENATE VOTE:** On final passage, March 31 — 31-0

**WITNESSES:** For — (*Registered, but did not testify:* Juan Salinas, AT&T; Frederick Frazier, Dallas Police Association/FOP716 State FOP Director; James Parnell, Dallas Police Association; David Sinclair, Game Warden Peace Officers Association; Ray Hunt, HPOU; Noel Johnson, JPCA; Carlos Lopez and Jama Pantel, Justices of the Peace and Constables Association of Texas; Brian Hawthorne, Sheriffs Association of Texas; Christina Puentes, Mary Lynn Rice-Lively, and Frances Schenkkan, Texas Gun Sense; Mitch Landry, Texas Municipal Police Association; John Chancellor, Texas Police Chiefs Association; Aimee Mobley Turney, The League of Women Voters of Texas; Tina Hester)

Against — None

On — Cullen Grissom, Texas Commission on Law Enforcement

**BACKGROUND:** Under Occupations Code sec. 1701.451, before a law enforcement agency may hire a person licensed by the Texas Commission on Law Enforcement (TCOLE), the agency head must make a request to TCOLE for any employment termination report and submit confirmation to TCOLE that the agency:

- conducted a criminal background check of the person;
- obtained the person's written consent for the agency to view the person's employment records;

- obtained from TCOLE any service or education records; and
- contacted each of the person's previous law enforcement employers.

A law enforcement agency that obtains a consent form is required to make the person's employment records available to a hiring law enforcement agency on request. TCOLE by rule has to establish a system for verifying an electronically submitted request for employment records.

If TCOLE receives from a law enforcement agency a request for a person's employment records, the commission employee having the responsibility to maintain any employment termination report regarding the person must release the report to the agency.

DIGEST:

CSSB 24 would remove the current preemployment requirements under Occupations Code sec. 1701.451 for law enforcement agencies hiring a person licensed by the Texas Commission on Law Enforcement (TCOLE) and establish a new preemployment procedure.

Before a law enforcement agency could hire a licensed person, the agency would have to, on a form and in the manner prescribed by TCOLE, obtain the person's written consent for the agency to review the information required under the bill and request such information from TCOLE and any other applicable person.

The law enforcement agency would have to submit to TCOLE confirmation that the agency contacted each entity or individual necessary to obtain the required information and obtained and reviewed as related to the person, as applicable:

- personnel files and other employee records from each previous law enforcement agency employer, including the employment application submitted to the previous employer;
- employment termination reports maintained by TCOLE;
- service records maintained by TCOLE;
- proof that the person met the minimum qualifications for

- enrollment in a peace officer training program;
- a military veteran's U.S. Department of Defense Form DD-214 or other military discharge record;
- criminal history record information;
- information on pending warrants as available through the Texas Crime Information Center and National Crime Information Center;
- evidence of financial responsibility as required under the Motor Vehicle Safety and Responsibility Act;
- a driving record from the Department of Public Safety;
- proof of U.S. citizenship; and
- information on the person's background from at least three personal references and at least two professional references.

If an entity or individual contacted refused to provide the information or did not respond to the request, the confirmation submitted to TCOLE would have to document the manner of the request and the refusal or lack of response.

If TCOLE or a law enforcement agency received from a law enforcement agency a request for information and the person's consent on the forms and in the manner prescribed by TCOLE, the commission or agency would have to provide the information to the requesting agency.

The confirmation form submitted to TCOLE under the bill would not be confidential and would be subject to disclosure under public information laws.

TCOLE would have to establish the forms and procedures required under the bill, including:

- the process by which a law enforcement agency would make a person's employment records electronically available to a hiring law enforcement agency;
- appropriate privacy and security protections; and
- a rule prohibiting a confirmation form submitted to TCOLE from

containing certain confidential information that is excepted from public disclosure.

TCOLE would have to post the forms and procedures on its website and retain a record of each submitted confirmation form.

The head of a law enforcement agency would have to review and sign each confirmation form before submitting to TCOLE. The failure of an agency head to comply with this requirement would constitute grounds for suspension of the agency head's license.

A law enforcement agency, agency head, or other law enforcement agency official would not be liable for civil damages for making a person's information available to a hiring law enforcement agency under the bill.

TCOLE would have to adopt rules necessary to implement the bill by January 1, 2022.

The bill would take effect September 1, 2021, and would apply only to the hiring of an officer by a law enforcement agency that occurred on or after January 1, 2022.

**SUPPORTERS  
SAY:**

CSSB 24 would establish new preemployment screening procedures for law enforcement agencies to enhance the quality of peace officers in Texas, which would benefit law enforcement and instill confidence in the communities they protect and serve.

Currently, hiring practices differ among agencies across the state, which has allowed some officers to continue serving after being accused of misconduct. It has been suggested that the state should enhance preemployment screening requirements for law enforcement agencies to prevent these bad actors from bouncing from one law enforcement agency to another.

The new hiring procedures would hold both peace officers and law enforcement agencies accountable by requiring agencies to review a

standard list of basic background information on prior conduct and activities, including the applicant's criminal history and driving records and personal and professional references. The bill also would require a hiring law enforcement agency to review an applicant's personnel file and job applications from any previous employing law enforcement agency. These new procedures would increase transparency in the peace officer hiring process and ensure that agencies made informed hiring decisions.

CRITICS  
SAY:

No concerns identified.

NOTES:

According to the Legislative Budget Board, the bill would have a negative impact of about \$981,000 to general revenue through fiscal 2023. The cost would be related to the database system and portal that would be used to implement the bill, including electronic security, cloud storage, and staff to maintain the system.