

BILL ANALYSIS

Senate Research Center

C.S.S.B. 629
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Intergovernmental Relations
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Committee Report (Substituted)

DIGEST

Currently, there is no state law that relates to the records of an overturned disciplinary action or a charge of misconduct against fire fighters and police officers in certain municipalities. Fire fighters and police officers are not entitled to the safeguards and protection given to Texas residents regarding false, unfounded, and unsustained grievances and complaints that are expunged. This bill sets forth provisions for records of overturned disciplinary actions or charges of misconduct against fire fighters and police officers.

PURPOSE

As proposed, C.S.S.B. 629 sets forth provisions for records of overturned disciplinary actions or charges of misconduct against fire fighters and police officers.

RULEMAKING AUTHORITY

This bill does not grant any additional rulemaking authority to a state officer, institution, or agency.

SECTION BY SECTION ANALYSIS

SECTION 1. Amends Chapter 143D, Local Government Code, by adding Section 143.058, as follows:

Sec. 143.058. RECORDS RELATED TO DISCIPLINARY ACTIONS OR CHARGES OF MISCONDUCT. Requires the department head which is the chief or head of a fire or police department to order the records of a disciplinary action taken against a fire fighter or police officer to be expunged from files maintained by the fire or police department if the disciplinary action was entirely overturned on appeal by the Fire Fighters' and Police Officers' Civil Service Commission, an independent third-party examiner, or a court of competent jurisdiction. Requires the documents expunged under this subsection to include all documents that indicate disciplinary action was recommended or taken against the firefighter or police officer. Sets forth provisions to which this subsection does not apply. Requires the department to maintain certain documents only in a file created by the department for the department's use. Authorizes the department to release those documents to another law enforcement agency or fire department, or in accordance with Subsection (c) or Section 143.089(g) or (h). Authorizes the department head or the designee to forward a document that relates to disciplinary action against a fire fighter or police officer to the director or the director's designee for inclusion in the fire fighter's or police officer's maintained personnel file if certain conditions apply. Provides that the requirements of this section are in addition to the requirements of Section 143.089. Provides that a fire fighter or police officer is not prohibited from obtaining access to any personnel file maintained by the department on the fire fighter or police officer under Section 143.089.

SECTION 2. Amends Section 143.089, Local Government Code, by amending Subsection (g) and adding Subsection (h), to prohibit a department from releasing certain information about a fire fighter or police officer to any agency or person other than the fire fighter or police officer to whom the information relates. Authorizes a file maintained under Subsection (g) to be released to a party in a civil or criminal action only if the court has determined that the particular file or part of the file is relevant to the action and if an application for a protective order limiting the use that may be made

of the file has been filed with the court. Authorizes a department head who is party to the action to stipulate that the file is relevant to the action. Requires the department head to find that an application for a protective order limiting the use of the file has been filed with the court before the file may be released.

SECTION 3. Repealer: Section 143.1214, Local Government Code (Records of Overturned Disciplinary Action or Unsustained Complaint).

SECTION 3. Effective date: September 1, 1997.
Makes application of this Act prospective.

SECTION 4. Emergency clause.

SUMMARY OF COMMITTEE CHANGES

SECTION 1.

Makes a change in the relating clause. Amends Sec. 143.058 to change the heading. Deletes a proposed provision providing that this subsection does not apply if the disciplinary action was only reduced and not overturned. Deletes a proposed provision requiring the department to maintain an investigatory document on charges of misconduct against a fire fighter or police officer that the department did not sustain. Requires an investigatory document to be maintained regardless of whether the charge is sustained against a fire fighter or police officer. Sets forth conditions for which the department is authorized to release information in investigatory files. Deletes proposed Subsection (c). Sets forth new proposed Subsections (c) and (d), regarding actions a department head is authorized to take in forwarding certain documents and the requirements to which this proposed section pertains, respectively.

SECTION 2.

Redesignates proposed SECTION 2 as SECTION 3, and establishes new provisions to amend Section 143.089, Local Government Code.

SECTION 3.

Redesignated from proposed SECTION 2.

SECTION 4.

Makes application of this Act prospective.

SECTION 5.

Establishes the emergency clause.