

BILL ANALYSIS

Senate Research Center

C.S.S.B. 1540
By: Gallegos
Intergovernmental Relations
4/8/1999
Committee Report (Substituted)

DIGEST

This legislation is a product of the meet and confer contract in Houston. The proposed legislation requires a city to expunge documents of overturned disciplinary actions from departmental investigatory files. C.S.S.B. 1540 would protect files by mandating that a protective order is secured regarding any court action that requests access to personnel or investigatory files, and would require a judge to determine the relevance of the request and decide what can be reviewed and how it can be used.

PURPOSE

As proposed, C.S.S.B. 1540 sets forth provisions regarding certain nondisciplinary actions and the records of overturned disciplinary actions or charges of misconduct against certain 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 Section 143.1214, Local Government Code, as follows:

Sec. 143.1214. New heading: RECORDS RELATED TO DISCIPLINARY ACTIONS OR CHARGES OF MISCONDUCT. Requires the human resources director (director), rather than head, for the police department (department) to promptly order that the records of a disciplinary action taken against a police officer be expunged, if the disciplinary action was entirely overturned on appeal. Provides that this subsection does not apply, if the police officer is charged with using excessive force that results in a death or injury and the charge is being investigated. Provides that nothing contained herein shall require that the Internal Affairs Division records be expunged under any circumstances. Requires the department to maintain an investigatory file, rather than document, that relates to a disciplinary action against a police officer that was overturned on appeal, regardless of whether the charge is sustained. Authorizes the department to only release information in those investigatory files relating to a charge of misconduct to certain offices. Authorizes the department head or the department head's designee to forward a document that relates to disciplinary action against a police officer to the director or the director's designee for inclusion in the police officer's personnel file maintained under Sections 143.089(a)-(f), only if certain conditions exist. Sets forth conditions under which a file or part of a file maintained under Section 143.089(g) may be released to a party in a civil or criminal action. Requires the director for the department to find that an application for a protective order limiting the use that may be made of the file or part of the file has been filed with the court, before releasing the file or part of the file. Requires the legal division of the municipality, or its designee, to provide legal representation in any action related to the release of a file or part of a file under Subsection (d). Provides that the requirements of this section are in addition to the requirements of Section 143.089. Provides that this section does not prevent a police officer from obtaining access to any personnel file maintained by the director or the department on the police officer under Section 143.089, with the exception of the Internal Affairs Division files. Deletes text regarding disciplinary action. Makes conforming and nonsubstantive changes.

SECTION 2. Amends Chapter 143G, Local Government Code, by adding Section 143.1216, as follows:

Sec. 143.1216. CERTAIN NONDISCIPLINARY ACTIONS. Authorizes the department to use a supervisory intervention procedure or a policy and procedure inquiry to modify a police

officer's behavior through certain procedures. Provides that a supervisory intervention procedure or a policy and procedure inquiry regarding a police officer is not considered a disciplinary action for any purpose. Prohibits a police officer who is the subject of a supervisory intervention procedure or a policy and procedure inquiry from filing an appeal or grievance regarding the action taken by the department. Prohibits the department from including a record of a supervisory intervention procedure or a policy and procedure inquiry regarding a police officer in the police officer's personnel file maintained under Section 143.089 or in the department file maintained under Section 143.089(g). Authorizes the department to include a record of a supervisory intervention procedure or a policy and procedure inquiry regarding a police officer in a file maintained by the division of the department in which the police officer is employed. Authorizes the record in the division file to be considered in a periodic performance evaluation of police officer's performance, only if the supervisory intervention procedure or policy and procedure inquiry occurred during the performance period that is the subject of the performance evaluation. Authorizes the department to maintain an electronic record of supervisory intervention procedure inquiries that may be used only by the department for tracking and statistical purposes. Makes conforming changes.

SECTION 3. Effective date: September 1, 1999.
Makes application of this Act prospective.

SECTION 4. Emergency clause.

SUMMARY OF COMMITTEE CHANGES

Relating clause.

Amends the relating clause to relating to certain nondisciplinary actions and to the records of overturned disciplinary actions or charges of misconduct against certain police officers.

SECTION 1.

Amends Section 143.1214, Local Government Code, to require the director for the department to promptly order that the records of a disciplinary action taken against a police officer be expunged, if the disciplinary action was entirely overturned on appeal. Provides that nothing contained herein shall require that the Internal Affairs Division records be expunged under any circumstances. Provides that this section does not prevent a police officer from obtaining access to any personnel file maintained by the director or the department on the police officer under Section 143.089, with the exception of the Internal Affairs Division files. Deletes text regarding fire fighter. Makes conforming changes.

SECTION 2.

Amends Section 143.1216, Local Government Code, to make conforming changes.