

## **BILL ANALYSIS**

Senate Research Center  
77R11132 ATP-D

C.S.S.B. 1176  
By: Gallegos  
Intergovernmental Relations  
4/25/2001  
Committee Report (Substituted)

### **DIGEST AND PURPOSE**

Existing statutes regarding nondisciplinary actions against certain police officers and the personnel records of police officers and fire fighters may result in arbitrary, personal retribution in court proceedings. C.S.S.B. 1176 tightens restrictions on the use of personnel files and requires expungement of overturned disciplinary investigations from department files. It also requires a judge to determine the relevance of a disciplinary record in certain cases.

### **RULEMAKING AUTHORITY**

This bill does not expressly 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. (a) Requires the human resources director for the police or fire department (department), rather than the department head, to promptly order that the records of a disciplinary action against a fire fighter or police officer be expunged from the fire fighter's or police officer's file if the disciplinary action was entirely overturned on appeal. Provides that this subsection does not require that records of the internal affairs division be expunged. Deletes text regarding a disciplinary action that was reduced but not overturned.

(b) Requires the department to maintain an investigatory file, rather than document, that relates to a disciplinary action against a fire fighter or police officer that was overturned on appeal, or any document in the possession of the department that relates to a charge of misconduct against a fire fighter or police officer, regardless of whether the charge is sustained. Authorizes the department only to release information in those investigatory files or documents relating to a charge of misconduct to certain entities.

(c) Authorizes the department head or the department head's designee to forward a document that relates to disciplinary action against a fire fighter or police officer to the director of fire fighters' and police officers' civil service, or the director's designee, for inclusion in the fire fighter's or police officer's personnel file maintained under Sections 143.089 (a)-(f) only if certain conditions are met.

(d) Authorizes a file or part of a file maintained under Section 143.089(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 only if an application for a protective order limiting the file's use has been filed with the court. Requires the human resources director for the department, before releasing the file or part of the file, to find that an application for a protective order limiting the file's use has been filed with the court.

(e) 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).

(f) 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 fire fighter or police officer from obtaining access to any personnel file maintained by the director or the department, other than a file maintained by the internal affairs division, on the fire fighter or police officer under Section 143.089.

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

Sec. 143.1216. CERTAIN NONDISCIPLINARY ACTIONS. (a) Authorizes the department to use a supervisory intervention procedure or a policy and procedure inquiry to modify a police officer's behavior through: positive encouragement; counseling; job skills training; repeat task performances, classes, or exercises; or reeducation efforts, including a review of certain policies, procedures and lessons.

(b) 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.

(c) 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.

(d) 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).

(e) 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 officer is employed. Authorizes the record in the division file to be considered in a periodic performance evaluation of the 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.

(f) Authorizes the department to maintain an electronic record of supervisory intervention procedures or policy and procedure inquiries that may be used only by the department for tracking and statistical purposes.

SECTION 3. Effective date: September 1, 2001.  
Makes application of this Act prospective.

#### **SUMMARY OF COMMITTEE CHANGES**

Differs from the original in Section 143.1214(a) by including a proposed provision that the subsection does not require that records of the internal affairs division be expunged.

Differs from the original in Section 143.1214(f) by inserting into the proposed language the exception "other than a file maintained by the internal affairs division."