

BILL ANALYSIS

Senate Research Center
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H.B. 1189
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Intergovernmental Relations
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Engrossed

DIGEST AND PURPOSE

Currently, certain police departments maintain alternative dispute resolution procedures regarding officer training through a program of mediation. H.B. 1189 authorizes the head of a police department to develop and implement an alternative dispute resolution program and to refer to mediation certain disputes regarding police officers.

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 Subchapter G, Chapter 143, Local Government Code, by adding Section 143.135, as follows:

Sec. 143.135. MEDIATION. (a) Defines “mediation.”

(b) Authorizes the head of the police department to develop and implement an alternative dispute resolution program to refer certain disputes regarding police officers to mediation.

(c) Provides that if a dispute is referred to mediation under this section, the time limitations and deadlines under Sections 143.1015, 143.1016, 143.117, 143.118, 143.119, 143.120, and 143.127-143.134 are tolled until the earliest of certain possible dates.

(d) Provides that the conduct and demeanor of the mediator and the parties to the dispute during the course of the mediation are confidential. Provides that a letter, memorandum, document, note, or other oral or written communication that is relevant to the dispute and made between the mediator and the parties to the dispute or between the parties to the dispute during the course of the mediation procedure:

(1) is confidential and may not be disclosed unless all of the parties to the mediation agree to the disclosure in writing; and

(2) is admissible and discoverable in a separate proceeding only if the letter, memorandum, document, note, or other communication is admissible and discoverable independent of the mediation.

(e) Prohibits a mediator from being required to testify in a proceeding concerning information relating to or arising out of the mediation.

(f) Provides that Subsection (d) does not apply to a final written agreement to which the police department or municipality is a signatory that is reached as a result of a mediation procedure conducted under this section. Provides that information in the final written agreement is subject to required disclosure, is excepted from required disclosure, or is confidential in accordance with Chapter

552, Government Code, and other law.

(g) Authorizes the issue of confidentiality, if this section conflicts with other legal requirements for disclosure of communications or materials, to be presented to a district court for a judicial district in which the majority of the territory of the municipality is located to determine, in camera, whether the facts, circumstances, and context of the communications or materials sought to be disclosed warrant a protective order of the court or whether the communications or materials are subject to disclosure.

(h) Provides that Chapter 154, Civil Practice and Remedies Code, and police department rules apply to a mediation conducted under this section, except to the extent of any conflict with this section.

(i) Provides that Section 2009.054, Government Code, applies to the communications, records, conduct, and demeanor of the mediator and the parties, except to the extent of any conflict with this section.

(j) Provides that Section 143.1014 does not apply to a meeting or hearing conducted under this section.

SECTION 2. Effective date: September 1, 2003.