

BILL ANALYSIS

Senate Research Center
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H.B. 2677
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Criminal Justice
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Engrossed

AUTHOR'S/SPONSOR'S STATEMENT OF INTENT

H.B. 2677 addresses the issue of 'gypsy cops,' or those police officers who are able to move from agency to agency in spite of poor performance and unethical behavior. This problem frequently occurs because a poor performing officer's resignation is negotiated, resulting in partial or inadequate documentation of the exact circumstances of an officer's separation. In turn, many agencies do not receive adequate background information in screening out problematic officers. The result is a system that allows gypsy cops to take advantage of small and rural departments, which are unable to complete deep background checks due to limited resources.

The bill provides a solution to prevent gypsy cops from obtaining future positions in law enforcement under false pretenses. The bill requires that chief administrators report the circumstances surrounding the separation of an officer through a document called an F-5, currently provided to Texas Commission on Law Enforcement Officer Standards and Education (TCLEOSE) immediately upon separation. In order to insure the effectiveness of the F-5, the bill clearly defines the various terms used to describe the circumstances surrounding an officer's separation.

The bill not only tightens existing loopholes in the termination process but also tightens the responsibilities on hiring departments. The bill requires administrators to send a signed document to TCLEOSE, verifying that they have obtained a copy of the officer's F-5, performed a criminal background check, and contacted the candidate's previous law enforcement employers. In sum, H.B. 2677 protects law enforcement agencies, the many good officers who serve our communities and the citizens of the State of Texas from substandard or even dangerous officers.

RULEMAKING AUTHORITY

Rulemaking authority is expressly granted to the Commission on Law Enforcement Officer Standards and Education in SECTION 3 (Section 1701.4525, Occupations Code) of this bill.

SECTION BY SECTION ANALYSIS

SECTION 1. Amends Section 1701.451, Occupations Code, as follows:

Sec. 1701.451. New heading: PREEMPLOYMENT REQUEST FOR EMPLOYMENT TERMINATION REPORT AND SUBMISSION OF BACKGROUND CHECK CONFIRMATION FORM. (a) Requires a law enforcement agency, before it may hire a person licensed under this chapter (Occupations Related to Law Enforcement and Security), to make a written request to the Commission on Law Enforcement Officer Standards and Education (commission) for any employment termination report regarding the person that is maintained by the commission under this subchapter; and submit to the commission confirmation that the agency conducted a background check, obtained the person's consent for the agency to view the person's employment records, obtained service and education records from the commission, and contacted each of the person's previous law enforcement employers. Deletes existing text requiring the law enforcement agency to contact the commission to determine whether the commission has employment history records for the person.

(b) Sets forth the requirements for the written request to the commission for an employment termination report.

(c) Requires certain commission employees, if the commission receives a written request from a law enforcement entity for an employment termination report, to release the report to the agency. Deletes existing text providing that this section does not authorize the commission to release certain information concerning records except information regarding the existence of records. Deletes existing text prohibiting a law enforcement agency from using information obtained under this section to affect a person's eligibility for employment with the agency.

SECTION 2. Amends Section 1701.452, Occupations Code, as follows:

Sec. 1701.452. EMPLOYMENT TERMINATION REPORT. (a) Requires the law enforcement agency that submits an employment termination report to the commission to include a designation for the person regarding the circumstances under which the person was discharged. Creates a subdivision from existing text and makes a nonsubstantive change.

(b) Provides an exception, if a person is terminated for reasons other than death, to the requirement that the head of a law enforcement agency provide the person with a copy of the report. Requires the law enforcement agency on request to provide a copy of the report to the next of kin, if the person is deceased. Deletes existing text authorizing the person to submit a written statement to the commission to contest or explain any matter contained in the report.

(c) Requires the head of a law enforcement agency to submit a report under this section each time a person licensed under this chapter resigns or is terminated from the agency. Provides that the report is an official government document.

SECTION 3. Amends Subchapter J, Chapter 1701, Occupations Code, by adding Section 1701.4525, as follows:

Sec. 1701.4525. REQUEST FOR CORRECTION OF REPORT; ADMINISTRATIVE PENALTY; HEARING; APPEAL. (a) Authorizes a person who is the subject of an employment termination report maintained by the commission under this subchapter to contest information contained in the report by submitting to the law enforcement agency and to the commission a written request for correction of the report and any evidence contesting the information contained in the report not later than the 30th day after the date the person receives a copy of the report. Requires the commission to allow the head of the law enforcement agency to submit to the commission any evidence rebutting the evidence submitted by the person who is the subject of the report.

(b) Authorizes the commission to order the head of a law enforcement agency to correct a person's report in a timely manner based on information submitted to the law enforcement agency and to the commission by the person under Subsection (a). Requires an agency head ordered to correct a person's report to correct the person's report or to request a hearing conducted by the State Office of Administrative Hearings. Authorizes the commission to assess an administrative penalty against an agency head who fails to comply in a timely manner.

(c) Entitles a person to a hearing conducted by the State Office of Administrative Hearings if the commission refuses to order the head of a law enforcement agency to correct the person's report.

(d) Provides that a proceeding under Subsection (b) to contest the commission's order or under Subsection (c) to correct an employment termination report is a contested case under Chapter 2001 (Administrative Procedure), Government Code.

(e) Requires the commission to adopt rules for the administration of this section.

SECTION 4. Amends Section 1701.454(b), Occupations Code, to create an exception, as provided by this subchapter (Employment Records), rather than by this subsection, to the rule that a commission member or any other person may not release the contents of a report or statement submitted under this subchapter. Deletes existing text relating to the conditions under which the report or statement may be released.

SECTION 5. Amends Section 1701.456(a), Occupations Code, to make a conforming change.

SECTION 6. Makes application of the changes in law made this Act prospective to an employment termination report regarding a resignation or termination that occurs on or after the effective date of this Act.

SECTION 7. Effective date: September 1, 2005.