

BILL ANALYSIS

Senate Research Center
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S.B. 1303
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Criminal Justice
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AUTHOR'S/SPONSOR'S STATEMENT OF INTENT

Currently, chief administrators must report the circumstances surrounding the employment separation of an officer to the Commission on Law Enforcement Officer Standards and Education (commission). Chief administrators have civil immunity for information reported to the commission in good faith. There is no requirement for a potential hiring department to request the report, and when the report is released to a hiring agency only the identifying portion of the document is submitted; potential disciplinary actions and current investigation issues are not remitted.

As proposed, S.B. 1303 clarifies that the employment termination report maintained by the commission is an official government document. It requires hiring agencies to request the employment termination report from the commission, and requires an agency, on separation of an employee, to describe the conditions of that separation, using labels that clearly describe the circumstances surrounding an officer's separation such as "honorable discharge" and "dishonorable discharge," which are defined in the bill. It provides for criminal and civil penalties for chief administrators who do not accurately and completely fill out the report for each separation, and creates a system of appeals through either the commission or the State Office of Administrative Hearings to correct an employment termination report.

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 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. 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). 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. Classifies a proceeding under this subsection as a contested case under Chapter 2001 (Administrative Procedure), Government Code.

(d) 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.