

## **BILL ANALYSIS**

Senate Research Center

S.B. 1237  
By: Estes  
Criminal Justice  
8/10/2009  
Enrolled

### **AUTHOR'S / SPONSOR'S STATEMENT OF INTENT**

Juvenile probation officers (JPOs) are not authorized to carry a firearm while performing official duties, and there is a concern for the safety of these JPOs because they are sometimes required to travel alone and at night to various locations, some of which are in dangerous or isolated areas.

Every county juvenile probation department has a different level of resources and cultural differences. JPOs are county employees, and the county juvenile probation department should have discretion in protecting the community and county employees. Twelve other states authorize or require JPOs to carry a firearm. In nine of those states, the decision is local. Moreover, similar occupations in Texas, including adult probation officers, adult parole officers, and officers in the Office of Inspector General at the Texas Youth Commission, are authorized to carry firearms. Certain attorneys and judges also are allowed to carry a weapon in the work environment.

S.B. 1237 amends current law relating to the authority of certain juvenile probation officers to carry firearms.

### **RULEMAKING AUTHORITY**

Rulemaking authority is expressly granted to the Texas Commission on Law Enforcement Officer Standards and Education in SECTION 5 (Section 1701.258, Occupations Code) of this bill.

Rulemaking authority is expressly granted to the Texas Juvenile Probation Commission in SECTION 5 (Section 1701.258, Occupations Code) of this bill.

### **SECTION BY SECTION ANALYSIS**

SECTION 1. Amends the heading to Section 141.066, Human Resources Code, to read as follows:

Sec. 141.066. CARRYING OF FIREARM BY CERTAIN OFFICERS PROHIBITED.

SECTION 2. Amends Section 141.066(b), Human Resources Code, to provide that this section does not apply to an employee of the Texas Youth Commission or a juvenile probation officer authorized to carry a firearm under Section 142.006. Makes nonsubstantive changes.

SECTION 3. Amends Chapter 142, Human Resources Code, by adding Section 142.006, as follows:

Sec. 142.006. AUTHORIZATION TO CARRY FIREARM. (a) Authorizes a juvenile probation officer (JPO) to carry a firearm in the course of the JPO's official duties if the JPO possesses a certificate of firearms proficiency issued by the Texas Commission on Law Enforcement Officer Standards and Education (TCLEOSE) under Section 1701.258, Occupations Code; the chief JPO of the juvenile probation department that employs the JPO authorizes the JPO to carry a firearm in the course of the JPO's official duties; and the juvenile probation officer has been employed for at least one year by the juvenile probation department described by Subdivision (2) (relating to authorization from the chief juvenile probation officer to carry a firearm).

(b) Provides that a juvenile probation officer is disqualified from being authorized to carry a firearm under this section if the officer has been designated a perpetrator in a Texas Juvenile Probation Commission (TJPC) abuse, neglect, or exploitation investigation.

(c) Provides that this section does not affect the sovereign immunity of the state, an agency of the state, or a political subdivision of the state.

SECTION 4. Reenacts Section 46.15(a), Penal Code, as amended by Chapters 1214 (H.B. 1889) and 1222 (H.B. 2300), Acts of the 80th Legislature, Regular Session, 2007, and amends it to provide that Sections 46.02 (Unlawful Carrying Weapons) and 46.03 (Places Weapons Prohibited) do not apply to a JPO who is authorized to carry a firearm under Section 142.006, Human Resources Code. Makes nonsubstantive changes.

SECTION 5. Amends Subchapter F, Chapter 1701, Occupations Code, by adding Section 1701.258, as follows:

Sec. 1701.258. FIREARMS TRAINING PROGRAM FOR JUVENILE PROBATION OFFICERS. (a) Requires TCLEOSE and TJPC by rule to adopt a memorandum of understanding that establishes a training program in the use of firearms by JPOs. Requires that the memorandum of understanding establish a program that provides instruction in legal limitations of the use of firearms and on the powers and authority of JPOs; range firing and procedure, and firearms safety and maintenance; and other topics determined by TCLEOSE and TJPC to be necessary for the responsible use of firearms by JPOs.

(b) Requires TCLEOSE to administer the training program and issue a certificate of firearms proficiency to each JPO that TCLEOSE determines has successfully completed the program described by Subsection (a).

(c) Authorizes TCLEOSE to establish reasonable and necessary fees for the administration of this section.

(d) Provides that this section does not affect the sovereign immunity of the state, an agency of the state, or a political subdivision of the state.

SECTION 6. Requires TCLEOSE and TJPC to adopt the memorandum of understanding required by Section 1701.258, Occupations Code, as added by this Act, not later than January 1, 2010.

SECTION 7. Effective date: upon passage or September 1, 2009.