

## **BILL ANALYSIS**

C.S.S.B. 24  
By: Huffman  
Homeland Security & Public Safety  
Committee Report (Substituted)

### **BACKGROUND AND PURPOSE**

There have been a number of high-profile incidents of police misconduct in recent years. Despite the many law enforcement officers who serve their communities with distinction and honor, a few unfit officers can tarnish the image of the profession. It has been suggested that the state should enhance preemployment screening requirements for law enforcement agencies to prevent these bad actors from bouncing from one law enforcement agency to another. C.S.S.B. 24 seeks to establish new preemployment screening procedures that hold both the law enforcement officer applying for a position and the hiring law enforcement agency accountable by requiring the agency to review pertinent records of prior conduct and activities and other background information about the officer before the officer may be hired by the agency.

### **CRIMINAL JUSTICE IMPACT**

It is the committee's opinion that this bill does not expressly create a criminal offense, increase the punishment for an existing criminal offense or category of offenses, or change the eligibility of a person for community supervision, parole, or mandatory supervision.

### **RULEMAKING AUTHORITY**

It is the committee's opinion that rulemaking authority is expressly granted to the Texas Commission on Law Enforcement in SECTION 4 of this bill.

### **ANALYSIS**

C.S.S.B. 24 amends the Occupations Code to replace the existing preemployment screening procedures for a law enforcement agency hiring a person licensed as a law enforcement officer with new procedures under which an agency is required to do the following, on a form and in the manner prescribed by the Texas Commission on Law Enforcement (TCOLE), before the agency may hire such a person:

- obtain the person's written consent for the agency to review the following information as related to the person, as applicable:
  - personnel files and other employee records from each previous law enforcement agency employer, including the employment application submitted to the previous employer;
  - employment termination reports and service records maintained by TCOLE;
  - proof that the person meets certain minimum qualifications for enrollment in an applicable TCOLE training program;
  - a military veteran's U.S. Department of Defense Form DD-214 or other military discharge record;
  - criminal history record information;
  - information on pending warrants as available through the Texas Crime Information Center and the National Crime Information Center;
  - evidence of financial responsibility required to operate a motor vehicle and a driving record from the Department of Public Safety;

- proof of U.S. citizenship; and
- information on the person's background from at least three personal references and at least two professional references;
- request the specified information from TCOLE and any other applicable person; and
- submit to TCOLE confirmation that the agency, to the best of the agency's ability, took the following actions before hiring the person:
  - contacted each entity or individual necessary to obtain the specified information; and
  - obtained and reviewed the information.

C.S.S.B. 24 requires TCOLE or a law enforcement agency, on receiving an information request from a hiring law enforcement agency and the person's consent on the forms and in the manner prescribed by TCOLE, to provide the information to the requesting agency. The bill exempts a law enforcement agency, the agency's head, or another law enforcement official from civil liability for making a person's information available to the hiring agency. If an entity or individual contacted for information refused to provide the information or did not respond to the request, the hiring agency's confirmation submitted to TCOLE must document the manner of the request and the refusal or lack of response. The bill establishes that the confirmation form submitted to TCOLE is not confidential and is subject to disclosure under state public information law.

C.S.S.B. 24 requires TCOLE to do the following:

- by rule and not later than January 1, 2022, establish the requisite forms and procedures, including:
  - the process by which a law enforcement agency makes a person's employment records electronically available to a hiring law enforcement agency;
  - appropriate privacy and security protections for that electronic disclosure process; and
  - a rule prohibiting a confirmation form submitted to TCOLE from containing certain confidential personal identifying information regarding the person who is the subject of the confirmation form;
- post the forms and procedures on the TCOLE website; and
- retain a record of each submitted confirmation form.

The bill requires the head of a law enforcement agency or their designee to review and sign each confirmation form before submission to TCOLE and provides that the failure of an agency head or their designee to do so constitutes grounds for suspension of the agency head's license.

C.S.S.B. 24 amends the Local Government Code to entitle a law enforcement agency hiring a police officer to view the contents of the officer's personnel file maintained by a police department.

C.S.S.B. 24 applies only to the hiring of a person by a law enforcement agency on or after January 1, 2022.

C.S.S.B. 24 repeals Section 1701.451(a-1), Occupations Code.

**EFFECTIVE DATE**

September 1, 2021.

**COMPARISON OF SENATE ENGROSSED AND SUBSTITUTE**

While C.S.S.B. 24 may differ from the engrossed in minor or nonsubstantive ways, the following summarizes the substantial differences between the engrossed and committee substitute versions of the bill.

Whereas the engrossed established new preemployment screening procedures only with respect to a licensed law enforcement officer hired to fill a peace officer position while retaining the existing procedures for all other positions for which an agency may hire a license holder, the substitute instead replaces the existing procedures altogether and makes the new procedures established in the engrossed applicable to all positions for which a law enforcement agency hires a licensed law enforcement officer. Accordingly, the substitute repeals Section 1701.451(a-1), Occupations Code, whereas the engrossed did not.