

SUBJECT: Law enforcement training and criminal history records, court fees

COMMITTEE: Public Safety — favorable, without amendment

VOTE: 7 ayes — Oakley, Allen, Carter, Driver, Edwards, Madden, McCoulskey

0 nays

2 absent — Bailey, Luna

SENATE VOTE: On final passage, May 4 — voice vote

WITNESSES: None

DIGEST: SB 1135 would make a number of changes to Chapter 415 of the Government Code relating to the Texas Commission on Law Enforcement Officer Standards and Education (TCLEOSE). The bill would raise from \$1.50 to \$3.50 the court costs fee charged to persons convicted of a criminal offense and dedicate the additional \$2 to officers' continuing education.

Employment history records. SB 1135 would require the head of a law enforcement agency to submit a report to TCLEOSE explaining the circumstances under which a licensed officer resigned or was terminated from that agency. The head of the law enforcement agency would be required to give the person who resigned or was terminated a copy of the report. The person could submit a written statement to TCLEOSE contesting or explaining any matters contained in the report. TCLEOSE would have to keep the reports and statements for 10 years after submission of the reports.

The head of an agency would be required to determine whether TCLEOSE has employment history records on a licensed officer before hiring the officer. TCLEOSE could only acknowledge or deny the existence of a record, but could not divulge the contents of any existing record without a proper request, as detailed below. A law enforcement agency could not use the existence or non-existence of a record to affect eligibility for employment with the agency. A report or statement would be confidential

and exempt from the Open Records Act. A report of statement would be subject to subpoena only in a judicial proceeding.

A report or statement could only be released by a responsible TCLEOSE employee if the head of the law enforcement agency signed a request for the information on agency letterhead and if the subject of the report authorizes release by sworn statement that waives liability.

TCLEOSE would not be liable for civil damages for providing the information if it followed the required procedure. A law enforcement agency, agency head, or other law enforcement official would not be liable for civil damages if the report were made in good faith.

TCLEOSE would not be authorized by this section to review disciplinary action by a law enforcement agency or issue a subpoena to compel disciplinary action documents.

Continuing education programs. SB 1135 would mandate that TCLEOSE establish minimum curriculum requirements for preparatory and advanced courses and programs, but not in-service programs, for schools subject to TCLEOSE approval.

Training programs offered by state, county, special districts, or municipal agencies that appoint or employ peace officers could not exceed 40 hours and 20 of those hours would have to be on topics selected by the agency. Courses provided through the agencies would have to:

- be approved by TCLEOSE,
- include education and training in civil rights, racial sensitivity and cultural diversity;
- include education and training in recognition of cases that involve child abuse, child neglect, family violence and sexual assault, unless these courses are determined by the agency head to be inconsistent with the officer's assigned duties,
- include other education and training if consistent with the officer's assigned duties.

Allocation of court costs for training. A person convicted of a criminal offense would pay a court costs fee of \$3.50 rather than \$1.50. Those court costs would be deposited in the state treasury as follows:

- \$1 to the TCLEOSE account for administrative expenses,
- \$2 to the TCLEOSE account for expenses related to the continuing education of persons licensed under this chapter, and
- 50 cents to the credit of the Bill Blackwood Law Enforcement Management Institute Fund.

The comptroller would allocate the funds for law enforcement continuing education every year by March 1 to local law enforcement agencies. Twenty percent of the money would be allocated to local law enforcement agencies in the state in equal shares. Eighty percent of the money would be allocated in shares representing a fixed amount for each position in a local law enforcement agency that is reserved to a licensed peace officer averaging at least 32 hours a week and compensated by the state at minimum wage or higher with benefits.

The head of a law enforcement agency would be required to maintain a detailed written record of all money received and expended by the agency under this section. Money spent and received would be subject to audit.

A local law enforcement agency could use the money only as necessary to ensure the continuing education of its full-time fully paid law enforcement personnel. An agency could not use the money to replace funds provided by the county or municipality for training officers. A county or municipality that has a law enforcement agency with licensed officers would need to conduct an annual audit of that agency and send results to the comptroller within 90 days of its completion.

Retired DPS officers. The bill specifies that an honorably retired commissioned officer of the Department of Public Safety who is a special ranger or a retired state employee with a permanent license issued before January 1981 and current on January 1, 1995, would have all the same rights and privileges of an active license unless revoked, suspended, or probated by TCLEOSE.

Sunset study on academies. The Sunset Advisory Commission would study and determine the feasibility, costs, and benefits of establishing regional academies operated and funded by the state to provide continuing education for officers and county jailers. The commission would include its findings in a report presented to the 75th Legislature and the governor. This section would expire September 1, 1997. The bill would take effect September 1, 1995.

**SUPPORTERS
SAY:**

SB 1135 would provide law enforcement agencies with a centralized records source for employment information on possible officer hires. TCLEOSE would be required to keep information on why an officer was terminated from a position in a law enforcement agency in this state.

The problem now is that an officer might be terminated for a position because of improper conduct in one part of the state, and then omit from an application for employment in another part of the state any mention of having worked at the agency from which the officer was terminated. These "gypsy cops" go from job to job, endangering the public. SB 1135 would allow an agency to find out about improper conduct in previous employment.

The bill would also clarify that not only may a law enforcement agency provide training on issues not outlined in the statutes, but would mandate that 20 hours of the 40 hours of continuing training would need to be on topics selected by the agency. Many agencies now believe that they can only provide training on mandated subjects. In addition, the bill would allow the agencies to not provide programs on the previously mandated topics of child abuse, child neglect, family violence and sexual assault if the programs are inconsistent with the officers' assigned duties. This exemption would be appropriate for Texas Alcoholic Beverage Commission officers or certain jail officers who would not come into contact with child abuse or other family problems in the course of their duties.

In addition, the bill would raise the court costs fee assessed against a convicted person from \$1.50 to \$3.50 to pay for the mandated continuing education training. TCLEOSE and the Bill Blackwood Law Enforcement Management Institute would receive the same amount of funds, but \$2.00

would be allocated directly to the local law enforcement agencies for training.

Because the training is mandated — by rule now, and after passage of this bill by statute — the local law enforcement agencies should receive these funds to maintain the training programs. According to the fiscal note, the probable revenue gain to the Law Officer Standards and Education Fund would be \$8,400,000 in fiscal 1996 and \$10,800,000 in each fiscal year 1997-2000, which would far exceed probable costs.

**OPPONENTS
SAY:**

The provision of the bill that allocates funds to "local law enforcement agencies" might create problems because that term is not defined in the chapter. As a result, a question of allocation might arise with regard to private police departments such as police departments within Southern Methodist University, Texas Christian University and hospitals around the state.