

SUBJECT: Qualifications and continuing education requirements for a constable

COMMITTEE: Law Enforcement — committee substitute recommended

VOTE: 6 ayes — Driver, Jackson, Frost, Hegar, Hupp, Veasey

0 nays

1 absent — Burnam

WITNESSES: For — Bruce Elfant, Justices of the Peace and Constables Association of Texas; Gary Freeman, Justices of the Peace and Constables Association of Texas; Ron Hickman, JPCA and Constables Legislative Committee; Mitch Landry, Texas Municipal Police Association

Against — None

BACKGROUND: Local Government Code, sec. 86.0021, says that to serve as a constable, a person:

- must have a high school diploma or equivalency certificate;
- must be 21 years of age, or 18 years of age if the person has completed 60 hours of college courses or has been honorably discharged from the U.S. military; and
- must not be a convicted felon.

If the person does not have a peace officer license when the person becomes a constable, the license must be obtained within 270 days of taking office. Otherwise, the county may initiate a quo warranto proceeding to remove the constable from office.

The duties of a constable include serving eviction notices and executing any civil or criminal process in the county in which the constable's precinct is located.

DIGEST: CSHB 1588 would change the minimum requirements for becoming a constable to require either an associate's degree or a peace officer license. A person who had a peace officer license would have to provide evidence of the license to the county commissioner's court upon taking office. A

person who did not have a peace officer license but still was eligible because the person held an associate's degree would have to provide evidence a license to the commissioners' court within 270 days of taking office.

If the constable did not provide evidence of a peace officer license by the required deadline, the office would be forfeited. A district court judge who removed a constable from office for failure to obtain a peace officer license could appoint a temporary, eligible successor. The commissioner's court then could appoint a permanent, eligible successor.

CSHB 1588 also would require a training program for new constables and a continuing education program for all constables. Both programs would have to cover information concerning law enforcement and civil process issues. The Bill Blackwood Law Enforcement Management Institute of Texas would conduct and design the programs, and the Commission on Law Enforcement Officer Standards and Education (TCLEOSE) would approve the programs.

Constables would have to complete at least 40 hours of continuing education provided by the Institute every 48 months. A new constable would be required to complete at least 40 hours of initial training, in addition to the training required to obtain a peace officer license, within two years of taking office. After one year in office, the continuing education requirement of 40 hours every 48 months would begin for a new constable.

The Institute would be allowed to establish rules providing for the waiver of:

- all or part of the initial 40-hour training program for a new constable who had completed equivalent training in the 24 months preceding appointment; or
- the continuing education requirement of 40 hours every 48 months for a constable who had completed equivalent continuing education during the previous 24 months.

A constable subject to the continuing education requirement of 40 hours every 48 months would be exempt from other continuing education training required of peace officers. The Institute would be required to establish the training and continuing education programs by January 1,

2006. The requirement that new constables take 40 hours of initial training would only apply to constables appointed or elected after January 1, 2006. A constable already in office would not be affected by the new continuing education requirements, but would be governed by the existing requirements until the term expired.

TCLEOSE would have to establish procedures to ensure that each constable complied with the initial training and the continuing education requirements. TCLEOSE would have to notify the Attorney General's Office of any constable not in compliance, and the attorney general would be required to begin proceedings to remove the constable from office.

The bill would take immediate effect if finally passed by a two-thirds record vote of the membership of each house. Otherwise, it would take effect September 1, 2005.

**SUPPORTERS
SAY:**

Under current law, a constable need have no law enforcement experience to take office if that person has a high school degree or its equivalent. A person has 270 days to obtain a license and in that time exercises many law enforcement functions. It is not in the public's best interest to have a person with only a high school degree acting in a law enforcement capacity for such an extended period of time without training. CSHB 1588 would require a person who did not hold a peace officer license to at least have an associate's degree before assuming office.

The bill would require TCLEOSE to notify the attorney general if any constable either did not obtain the initial training or did not maintain the continuing education requirement. The bill would further require the attorney general to institute proceedings to remove that constable from office. This would ensure that constables who have not received proper training did not remain in office, thereby protecting the public safety.

**OPPONENTS
SAY:**

Requiring a constable to have a peace officer license as a prerequisite of assuming office is the only sure way to protect the public safety. It is essential to public safety that a law enforcement officer with the authority to arrest people and seize property have proper training. The bill, however, would maintain the current state of the law that a constable has 270 days from assuming office to obtain a peace officer license as long as the constable has an associate's degree.

NOTES:

HB 1588 as introduced would have required a person to have a bachelor's degree or a peace officer license before taking office as a constable. The substitute changed the requirement of a bachelor's degree to an associate's degree. The substitute also would authorize the commissioner's court to appoint an eligible, permanent successor if a constable did not obtain or maintain a peace officer license.