

## **BILL ANALYSIS**

Senate Research Center  
76R7052 KLA-F

S.B. 1540  
By: Gallegos  
Intergovernmental Relations  
4/6/1999  
As Filed

### **DIGEST**

This legislation is a product of the meet and confer contract in Houston. The proposed legislation requires a city to expunge documents of overturned disciplinary actions from departmental investigatory files. S.B. 1540 would protect files by mandating that a protective order is secured regarding any court action that requests access to personnel or investigatory files, and would require a judge to determine the relevance of the request and decide what can be reviewed and how it can be used.

### **PURPOSE**

As proposed, S.B. 1540 sets forth provisions regarding certain nondisciplinary actions and the records of overturned disciplinary actions or charges of misconduct against certain fire fighters and police officers.

### **RULEMAKING AUTHORITY**

This bill does not grant any additional rulemaking authority to a state officer, institution, or agency.

### **SECTION BY SECTION ANALYSIS**

SECTION 1. Amends Section 143.1214, Local Government Code, as follows:

Sec. 143.1214. New heading: RECORDS RELATED TO DISCIPLINARY ACTIONS OR CHARGES OF MISCONDUCT. Requires the human resources director (director), rather than head, for the fire fighter or police officer department (department) to promptly order that the records of a disciplinary action taken against a fire fighter or police officer be expunged, if the disciplinary action was entirely overturned on appeal. Requires the department to maintain an investigatory file, rather than document, that relates to a disciplinary action against a fire fighter or police officer that was overturned on appeal, regardless of whether the charge is sustained. Authorizes the department to only release information in those investigatory files or documents relating to a charge of misconduct to certain offices. Authorizes the department head or the designee to forward a document that relates to disciplinary action against a fire fighter or police officer to the director or the director's designee for inclusion in the fire fighter's or police officer's personnel file maintained under Sections 143.089(a)-(f), only if certain conditions exist. Sets forth conditions under which a file or part of a file maintained under Section 143.089(g) may be released to a party in a civil or criminal action. Requires the director for the department to find that an application for a protective order limiting the use that may be made of the file or part of the file has been filed with the court, before releasing the file or part of the file. Requires the legal division of the municipality, or its designee, to provide legal representation in any action related to the release of a file or part of a file under Subsection (d). Provides that the requirements of this section are in addition to the requirements of Section 143.089. Provides that this section does not prevent a fire fighter or police officer from obtaining access to any personnel file maintained by the director or the department on the fire fighter or police officer under Section 143.089. Deletes text regarding disciplinary action. Makes conforming and nonsubstantive changes.

SECTION 2. Amends Chapter 143G, Local Government Code, by adding Section 143.1216, as follows:

Sec. 143.1216. CERTAIN NONDISCIPLINARY ACTIONS. Authorizes the department to use a supervisory intervention procedure or a policy and procedure inquiry to modify a fire fighter's or police officer's behavior through certain procedures. Provides that a supervisory intervention procedure or a policy and procedure inquiry regarding a fire fighter or police officer is not considered a disciplinary action for any purpose. Prohibits a fire fighter or police officer who is the

subject of a supervisory intervention procedure or a policy and procedure inquiry from filing an appeal or grievance regarding the action taken by the department. Prohibits the department from including a record of a supervisory intervention procedure or a policy and procedure inquiry regarding a fire fighter or police officer in the fire fighter's or police officer's personnel file maintained under Section 143.089 or in the department file maintained under Section 143.089(g). Authorizes the department to include a record of a supervisory intervention procedure or a policy and procedure inquiry regarding a fire fighter or police officer in a file maintained by the division of the department in which the fire fighter or police officer is employed. Authorizes the record in the division file to be considered in a periodic performance evaluation of the fire fighter's or police officer's performance, only if the supervisory intervention procedure or policy and procedure inquiry occurred during the performance period that is the subject of the performance evaluation. Authorizes the department to maintain an electronic record of supervisory intervention procedure inquiries that may be used only by the department for tracking and statistical purposes.

SECTION 3. Effective date: September 1, 1999.

Makes application of this Act prospective.

SECTION 4. Emergency clause.