

BILL ANALYSIS

Senate Research Center
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C.S.H.B. 1588
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Criminal Justice
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Committee Report (Substituted)

AUTHOR'S/SPONSOR'S STATEMENT OF INTENT

Current Texas law grants a constable 270 days after election to become licensed as a peace officer. If a constable fails to do so, the sole means of removing him or her from office is by action of the local county commissioners court. Due to local political considerations, commissioners courts are often reluctant to take such action. Consequently, those who are not licensed as peace officers continue to operate with the powers of arrest and additional authorities inherent in law enforcement.

C.S.H.B. 1588 requires the Office of the Attorney General to institute a quo warranto proceeding to remove a constable who does not obtain a peace officer's license. It also requires a person serving as constable to have a peace officer's license or an associate's degree conferred by an institution of higher education at the time the person takes office. H.B. 1588 requires constables to take part in peace officer administrator's training, similar to that required of police chiefs, within 48 months of taking office.

RULEMAKING AUTHORITY

Rulemaking authority is expressly granted to a select public institution of higher education in SECTION 2 (Section 1701.3545, Occupations Code) of this bill.

SECTION BY SECTION ANALYSIS

SECTION 1. Amends Section 86.0021(a), Local Government Code, to provide that a person is not eligible to serve as constable unless specific requirements are met.

SECTION 2. Amends Subchapter H, Chapter 1701, Occupations Code, by adding Section 1701.3545, as follows:

Sec. 1701.3545. INITIAL TRAINING AND CONTINUING EDUCATION FOR CONSTABLES. (a) Requires a public institution of higher education selected by the Commission on Law Enforcement Officer Standards and Education (commission) to establish and offer a program of initial training and a program of continuing education for constables. Requires the curriculum for each program to relate to law enforcement management and civil process issues. Requires the institution selected under this subsection to develop the curriculum for the programs. Requires the curriculum to be approved by the commission.

(b) Requires each constable to complete at least 40 hours of continuing education provided by the selected institution under this section each 48-month period.

(c) Requires an individual appointed or elected to that individual's first position as constable to complete at least 40 hours of initial training for new constables in accordance with Subsections (d) and (e).

(d) Requires a newly appointed or elected constable to complete the initial training program for new constables not later than the second anniversary of that individual's appointment or election as constable, in addition to the initial training required by this chapter. Sets forth the timeline for which the first 48-month period under Subsection (b) begins.

(e) Authorizes the institution selected under Subsection (a), by rule, to provide for the waiver of specific requirements.

(f) Provides that an individual who is subject to the continuing education requirements of Subsection (b) is exempt from other continuing education requirements under this subchapter.

(g) Requires the commission to establish procedures to annually determine the status of the peace officer license of each elected constable and to ensure that constables comply with this section and forward to the attorney general's office documentation for each constable who does not comply with this section. Provides that a constable who does not comply with this section forfeits the office and requires the attorney general to institute a quo warranto proceeding under Chapter 66 (Quo Warranto), Civil Practice and Remedies Code, to remove the constable from office.

(h) Provides that to the extent of a conflict between this section and any other law, this section controls.

SECTION 3. Amends Section 1701.354, Occupations Code, as follows:

Sec. 1701.354. New heading: CONTINUING EDUCATION FOR DEPUTY CONSTABLES. (a) Makes conforming changes.

(b) Makes no changes to this subsection.

(c) Redesignates existing text from Subsection (d). Deletes existing text relating to instances in which a constable is considered to be incompetent. Makes conforming changes.

SECTION 4. (a) Requires the public institution of higher education selected by the commission under Section 1701.3545, Occupations Code, as added by this Act, to establish the initial training and education programs required by that section, not later than January 1, 2006.

(b) Provides that Section 1701.3545(c), Occupations Code, as added by this Act, requiring newly appointed or elected constables to complete at least 40 hours of initial training, applies only to an individual newly appointed or elected as constable who takes office on or after January 1, 2006.

SECTION 5. Makes application of this Act prospective.

SECTION 6. Effective date: upon passage or September 1, 2005.