

SUBJECT: Allowing certain first responders to carry, store a handgun while on duty

COMMITTEE: Homeland Security and Public Safety — committee substitute recommended

VOTE: 7 ayes — White, Harless, Hefner, E. Morales, Patterson, Schaefer, Tinderholt

2 nays — Bowers, Goodwin

WITNESSES: For — Heather Hill, Come and Take It Texas; Rick Briscoe, Open Carry Texas; Michelle Mostert; Linda Nuno; (*Registered, but did not testify*: John Edeen, Doctors for Responsible Gun Ownership; Angela Smith, Fredericksburg Tea Party; Tamara Colbert and Paul Hodson, Grassroots Gold; Felisha Bull and Rachel Malone, Gun Owners of America; Laura Nodolf, Midland County District Attorney's Office; Tara Mica, National Rifle Association; Dee Chambless, Smith County Republican Women; Ruth York, Tea Party Patriots of Eastland County; David Weakley and Melissa Weakley, Texas Liberty Defenders; Andi Turner, Texas State Rifle Association; Jason Vaughn, Texas Young Republicans; Wayne Howell, TITFF; Shelia Franklin, True Texas Project; Jack Anderson, Patrick Harris, Kaden Mattingly, Catherine Nolde, and Dayton Wright, Young Conservatives of Texas-Baylor Chapter; Jake Neidert, Young Conservatives of Texas-State Board; and 68 individuals)

Against — Dylan Price; Joshua Todd; (*Registered, but did not testify*: Michelle Wittenburg, Dallas Fire Fighters Association; Stephanie Arthur, Everytown for Gun Safety and Moms Demand Action; Molly Bursey, Mandy Gauld, Elizabeth Hanks, Paula Hansen, Laura Legett, and Kathryn Vargas, Moms Demand Action for Gun Sense in America; AJ Louderback, Sheriffs Association of Texas; Louis Wichers, Texas Gun Sense; and 12 individuals)

On — Butch Oberhoff, Texas EMS Alliance; Bradley Hodges

DIGEST: CSHB 1069 would allow a municipal or county department or private

entity that employed or supervised first responders to adopt a policy authorizing a first responder who held a license to carry a handgun, an unexpired certificate of completion of the training course established under the bill, and a required liability policy to:

- carry a concealed or holstered handgun while on duty; or
- store a handgun on the premises of or in a vehicle owned or leased by the applicable municipality or county or private entity if the handgun was secured with an approved device.

A first responder could discharge a handgun while on duty only in self-defense.

The bill would apply only to:

- a municipality with a population of 30,000 or less that had not adopted the Fire and Police Employee Relations Act; and
- a county with a population of 250,000 or less that had not adopted the Fire and Police Employee Relations Act.

A municipality or county to which the bill applied could not adopt or enforce an ordinance, order, or other measure that generally prohibited an eligible first responder from carrying a concealed or holstered handgun while on duty or storing a handgun as provided for by the bill.

The bill would not prohibit a municipality or county from adopting a measure that prohibited a first responder from carrying a handgun while on duty based on the conduct of the first responder or limited the carrying of a handgun only to the extent necessary to ensure it did not interfere with the first responder's duties.

Storage of handgun. The public safety director of the Department of Public Safety (DPS) would have to approve devices to enable a first responder to secure and store a handgun if the first responder, while on duty, was required to enter a location where carrying the handgun was prohibited by federal law or otherwise.

A first responder who entered such a location would have to use an approved device to secure and store the handgun. The first responder would be responsible for procuring the device or for reimbursing the first responder's employer or supervisor for the use of a provided device.

Liability. A municipality or county would not be liable in a civil action arising from the discharge of a handgun by a first responder who was licensed to carry a handgun. The discharge of a handgun would be outside the course and scope of the first responder's duties.

The bill would not create a cause of action or liability and could not be construed to waive under law a municipality's or county's governmental immunity from suit or to liability.

Liability insurance. The bill would require a first responder to maintain liability insurance coverage in an amount of at least \$1 million if the first responder carried a handgun while on duty and the handgun was not an essential part of the first responder's duties.

Complaints. A member of the public could submit a complaint to the municipality or county using existing complaint procedures. One or more complaints received with respect to a specific first responder would be grounds for prohibiting or limiting that first responder's carrying a handgun while on duty.

Training course. The public safety director would have to establish minimum standards for an initial training course that a first responder who was a license holder and employed or supervised by a county or municipality to which the bill applied could complete to receive a certification of completion. The training course would have to:

- be administered by a qualified handgun instructor;
- include no more than 40 hours of instruction;
- provide classroom training in certain subjects, including self-defense, de-escalation techniques, and consequences of improper

- use of a handgun;
- provide field instruction in the use of handguns;
- require physical demonstrations of proficiency in techniques learned in training; and
- provide procedures for securing and storing a handgun if the first responder entered a location where carrying a handgun was prohibited.

DPS would have to establish minimum standards for an annual continuing education course that included no more than 10 hours of instruction for a person who had completed the initial course.

DPS would issue a certificate of completion to a first responder who completed either the initial training course or the continuing education course. A certificate would expire one year after issuance.

The public safety director would have to adopt rules to implement these provisions by December 2, 2021. A qualified handgun instructor could not offer the training course before January 1, 2022.

Defense to prosecution. It would be a defense to prosecution for the offenses of trespass by a license holder with a concealed handgun and trespass by a license holder with an openly carried handgun under Penal Code secs. 30.06 and 30.07, respectively, that the license holder was a first responder who:

- held an unexpired certificate of completion under the bill;
- was engaged in the actual discharge of the first responder's duties; and
- was employed or supervised by a municipality or county to which the bill applied.

Applicability of weapons offenses. Under the bill, Penal Code offenses related to the unlawful carrying of weapons, places weapons are prohibited, and the unlawful carrying of a handgun by a license holder on certain premises would not apply to a first responder who:

- was carrying a handgun in a concealed manner or in a shoulder or belt holster;
- held an unexpired certificate of completion under the bill;
- was engaged in the actual discharge of the first responder's duties; and
- was employed or supervised by a municipality or county to which the bill applied.

The bill would take effect September 1, 2021.

**SUPPORTERS
SAY:**

CSHB 1069 would ensure first responders employed by smaller counties or cities were able to adequately defend themselves by allowing first responders who were licensed handgun owners to carry a handgun while on duty. Texas should provide those that put their lives on the line to help others with the ability to protect themselves in the danger they face daily.

First responders are often the first to arrive to the scene of an incident, and in rural areas, first responders can arrive well before law enforcement. In these situations, first responders are susceptible to violence, and in some instances have been assaulted. By bracketing the bill to departments in cities with a population of 30,000 or less and counties with a population of 250,000 or less, the bill would protect first responders that do not have adequate police protection when responding in rural areas.

The bill would afford first responders the ability to defend themselves while equipping them with similar training as required for peace officers, including in de-escalation techniques. First responders also would be required to maintain minimum continuing education. Such training, in addition to the ability to carry a handgun, would reduce the amount of violence to which first responders are victims. Further, the bill would ensure that a first responder's duty was paramount to their ability to carry a firearm.

**CRITICS
SAY:**

CSHB 1069 could put first responders at increased risk without necessarily providing any benefit to public safety. First responders would

not receive adequate training under the bill to carry a handgun while on duty. Without the amount and type of in-depth training and screening required of law enforcement, first responders could be more susceptible to making mistakes during an emergency response. In highly stressful, unpredictable situations, first responders should continue the current practice of staging to wait for law enforcement to properly handle situations. The bill also could complicate the response to an emergency situation for peace officers as they may not know whether the first responder on the scene was authorized to carry a weapon.

CSHB 1069 could burden first responder departments and agencies, especially in rural areas. Agencies often provide service over jurisdictional lines where it is possible one jurisdiction would be eligible under the bill while another jurisdiction would not be. It is unclear how a tget would implement the bill and comply under these circumstances.

OTHER
CRITICS
SAY:

CSHB 1069 should provide every department that employed first responders across the state, rather than just certain ones the bill would apply to, the ability to decide if carrying a handgun was appropriate in their communities, and if so, regulate when and where personnel could carry. Several agencies currently allow first responders to carry a handgun while on duty, and the bill could inadvertently affect their ability.