

By: Sherman, Sr.

H.B. No. 1065

A BILL TO BE ENTITLED

AN ACT

1
2 relating to official oppression and to law enforcement policies
3 requiring peace officers to report certain peace officer
4 misconduct; creating a criminal offense.

5 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

6 SECTION 1. Chapter 2, Code of Criminal Procedure, is
7 amended by adding Article 2.36 to read as follows:

8 Art. 2.36. LAW ENFORCEMENT POLICY ON EXCESSIVE FORCE OR
9 OFFICIAL OPPRESSION; REPORT REQUIRED. (a) In this article, "law
10 enforcement agency" means an agency of the state or an agency of a
11 political subdivision of the state authorized by law to employ
12 peace officers.

13 (b) Each law enforcement agency shall adopt a detailed
14 written policy requiring peace officers employed by the agency to
15 promptly make a detailed written report of any incident in which the
16 peace officer witnesses another peace officer:

17 (1) using more force against a person suspected of
18 committing an offense than an ordinary, prudent peace officer would
19 use under the same or similar circumstances; or

20 (2) committing an offense under Section 39.03, Penal
21 Code.

22 (c) The policy must require a peace officer who makes a
23 report under Subsection (b) to deliver the report to the supervisor
24 of:

1 (1) the peace officer making the report; and

2 (2) the peace officer who used the excessive force or
3 committed official oppression.

4 (d) A law enforcement agency shall ensure that each peace
5 officer employed by the agency receives adequate training on the
6 policy adopted under this article.

7 (e) A law enforcement agency may not retaliate or
8 discriminate against an employee of the agency for making a report
9 required by this article.

10 SECTION 2. Section 39.03(a), Penal Code, is amended to read
11 as follows:

12 (a) A public servant acting under color of [~~his~~] office or
13 employment commits an offense if the public servant recklessly
14 [~~he~~]:

15 (1) [~~intentionally~~] subjects another to mistreatment
16 or to arrest, detention, search, seizure, dispossession,
17 assessment, or lien that the public servant [~~he~~] knows is unlawful;

18 (2) [~~intentionally~~] denies or impedes another in the
19 exercise or enjoyment of any right, privilege, power, or immunity,
20 knowing the public servant's [~~his~~] conduct is unlawful; or

21 (3) [~~intentionally~~] subjects another to sexual
22 harassment.

23 SECTION 3. Chapter 39, Penal Code, is amended by adding
24 Section 39.031 to read as follows:

25 Sec. 39.031. FAILURE TO MAKE OR DELIVER REQUIRED REPORT OF
26 CERTAIN PEACE OFFICER MISCONDUCT. (a) A peace officer required to
27 make and deliver a report under a policy adopted under Article 2.36,

1 Code of Criminal Procedure, commits an offense if the peace officer
2 fails to make or deliver the report as required by that policy.

3 (b) An offense under this section is a Class A misdemeanor.

4 SECTION 4. Section 39.03, Penal Code, as amended by this
5 Act, applies only to an offense committed on or after the effective
6 date of this Act. An offense committed before the effective date of
7 this Act is governed by the law in effect on the date the offense was
8 committed, and the former law is continued in effect for that
9 purpose. For purposes of this section, an offense was committed
10 before the effective date of this Act if any element of the offense
11 occurred before that date.

12 SECTION 5. Not later than January 1, 2024, each law
13 enforcement agency in this state shall adopt the policy required by
14 Article 2.36, Code of Criminal Procedure, as added by this Act.

15 SECTION 6. (a) Except as provided by Subsection (b) of this
16 section, this Act takes effect September 1, 2023.

17 (b) Section 39.031, Penal Code, as added by this Act, takes
18 effect January 1, 2024.