87R1540 ADM-D

By:  Sherman, Sr. H.B. No. 1642

A BILL TO BE ENTITLED

AN ACT

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

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

SECTION 1.  Chapter 2, Code of Criminal Procedure, is amended by adding Article 2.33 to read as follows:

Art. 2.33.  LAW ENFORCEMENT POLICY ON EXCESSIVE FORCE OR OFFICIAL OPPRESSION; REPORT REQUIRED. (a) In this article, "law enforcement agency" means an agency of the state or an agency of a political subdivision of the state authorized by law to employ peace officers.

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

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

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

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

(1)  the peace officer making the report; and

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

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

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

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

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

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

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

(3)  intentionally, knowingly, or recklessly subjects another to sexual harassment.

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

Sec. 39.031.  FAILURE TO MAKE OR DELIVER REQUIRED REPORT OF CERTAIN PEACE OFFICER MISCONDUCT. (a) A peace officer required to make and deliver a report under a policy adopted under Article 2.33, Code of Criminal Procedure, commits an offense if the peace officer fails to make or deliver the report as required by that policy.

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

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

SECTION 5.  Not later than January 1, 2022, each law enforcement agency in this state shall adopt the policy required by Article 2.33, Code of Criminal Procedure, as added by this Act.

SECTION 6.  (a) Except as provided by Subsection (b) of this section, this Act takes effect September 1, 2021.

(b)  Section 39.031, Penal Code, as added by this Act, takes effect January 1, 2022.