

By: Sherman, Sr.

H.B. No. 1642

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 2.33 to read as follows:

8 Art. 2.33. 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 in this state shall adopt a  
14 detailed written policy requiring peace officers employed by the  
15 agency to promptly make a detailed written report of any incident in  
16 which the 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 [~~he~~]:

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

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

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

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

26           Sec. 39.031. FAILURE TO MAKE OR DELIVER REQUIRED REPORT OF  
27 CERTAIN PEACE OFFICER MISCONDUCT. (a) A peace officer required to

1 make and deliver a report under a policy adopted under Article 2.33,  
2 Code of Criminal Procedure, commits an offense if the peace officer  
3 fails to make or deliver the report as required by that policy.

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

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

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

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

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