

By: Crockett

H.B. No. 3316

A BILL TO BE ENTITLED

AN ACT

1
2 relating to the duties of peace officers investigating a family
3 violence allegation or responding to a disturbance call that may
4 involve family violence.

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

6 SECTION 1. Article 5.04, Code of Criminal Procedure, is
7 amended by adding Subsections (d), (e), (f), (g), and (h) to read as
8 follows:

9 (d) Notwithstanding any other law, a peace officer who is
10 investigating a family violence allegation or responding to a
11 disturbance call that may involve family violence and who is
12 charging a person present at the scene with committing a separate
13 offense punishable as a misdemeanor shall, in lieu of arresting the
14 person, issue a citation to the person in the manner provided by
15 Article 14.06, regardless of whether the issuance of a citation for
16 that offense is specifically authorized by that article. This
17 subsection does not apply to an offense punishable as a Class A or B
18 misdemeanor under Chapter 20, 21, 22, 25, 42, 43, 46, 49, or 71,
19 Penal Code.

20 (e) Notwithstanding any other law, a peace officer who
21 investigates a family violence allegation or who responds to a
22 disturbance call that may involve family violence shall:

23 (1) decline to arrest a person present at the scene who
24 is subject to an outstanding arrest warrant for a separate offense

1 punishable as a misdemeanor, other than an offense punishable as a
2 Class A or B misdemeanor under Chapter 20, 21, 22, 25, 42, 43, 46,
3 49, or 71, Penal Code; and

4 (2) issue a citation to the person described by
5 Subdivision (1) in the manner provided by Article 14.06 for the
6 offense, regardless of whether the issuance of a citation for that
7 offense is specifically authorized by that article.

8 (f) Notwithstanding any other law, a peace officer who
9 investigates a family violence allegation or who responds to a
10 disturbance call that may involve family violence may not execute a
11 capias pro fine for any person present at the scene. The peace
12 officer shall:

13 (1) provide to the person:

14 (A) written notice that a capias pro fine has
15 been issued for the person; and

16 (B) written instructions regarding the methods
17 by which the person may discharge the outstanding fines or costs or
18 provide to the issuing court any evidence of the person's
19 indigency;

20 (2) require the person to sign an acknowledgment that
21 the officer has provided the notice and instructions described by
22 Subdivision (1); and

23 (3) submit the acknowledgment to the court issuing the
24 capias pro fine.

25 (g) A peace officer may not be held liable to fine as for
26 contempt of court under Article 11.60 for issuing a citation in lieu
27 of arresting a person under an outstanding warrant under Subsection

1 (e) or for providing written notice and instructions in lieu of
2 arresting a person under a capias pro fine under Subsection (f).

3 (h) The Office of Court Administration of the Texas Judicial
4 System shall develop and make available an acknowledgment form and
5 written instructions for use of that form under Subsection (f).

6 SECTION 2. Not later than December 1, 2021, the Office of
7 Court Administration of the Texas Judicial System shall develop and
8 make available the acknowledgement form and related instructions as
9 required by Article 5.04(h), Code of Criminal Procedure, as added
10 by this Act.

11 SECTION 3. The change in law made by this Act applies only
12 to a peace officer's investigation or response that occurs on or
13 after January 1, 2022. A peace officer's investigation or response
14 that occurs before January 1, 2022, is governed by the law in effect
15 immediately before the effective date of this Act, and the former
16 law is continued in effect for that purpose.

17 SECTION 4. This Act takes effect immediately if it receives
18 a vote of two-thirds of all the members elected to each house, as
19 provided by Section 39, Article III, Texas Constitution. If this
20 Act does not receive the vote necessary for immediate effect, this
21 Act takes effect September 1, 2021.