

By: Garcia

H.B. No. 2861

A BILL TO BE ENTITLED

AN ACT

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

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

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

(d) Notwithstanding any other law, a peace officer who is investigating a family violence allegation or responding to a disturbance call that may involve family violence and who is charging a person present at the scene with committing a separate offense punishable as a misdemeanor may, in lieu of arresting the person, issue a citation to the person in the manner provided by Article 14.06, regardless of whether the issuance of a citation for that offense is specifically authorized by that article. This subsection does not apply to an offense punishable as a Class A or B misdemeanor under Chapter 20, 21, 22, 25, 28, 42, 43, 46, 49, or 71, Penal Code.

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

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

punishable as a misdemeanor, other than an offense punishable as a Class A or B misdemeanor under Chapter 20, 21, 22, 25, 28, 42, 43, 46, 49, or 71, Penal Code; and

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

(f) Notwithstanding any other law, a peace officer who investigates a family violence allegation or who responds to a disturbance call that may involve family violence may, in lieu of executing a capias pro fine for a person present at the scene:

(1) provide to the person:

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

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

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

(g) A peace officer may not be held liable to fine as for contempt of court under Article 11.60 for issuing a citation in lieu of arresting a person under an outstanding warrant under Subsection (e) or for providing written notice and instructions in lieu of arresting a person under a capias pro fine under Subsection (f).

(h) The Office of Court Administration of the Texas Judicial

1 System shall develop and make available an acknowledgment form and
2 written instructions for use of that form under Subsection (f).

3 SECTION 2. Not later than December 1, 2023, the Office of
4 Court Administration of the Texas Judicial System shall develop and
5 make available the acknowledgment form and related instructions as
6 required by Article 5.04(h), Code of Criminal Procedure, as added
7 by this Act.

8 SECTION 3. The change in law made by this Act applies only
9 to a peace officer's investigation or response that occurs on or
10 after January 1, 2024. A peace officer's investigation or response
11 that occurs before January 1, 2024, is governed by the law in effect
12 immediately before the effective date of this Act, and the former
13 law is continued in effect for that purpose.

14 SECTION 4. This Act takes effect immediately if it receives
15 a vote of two-thirds of all the members elected to each house, as
16 provided by Section 39, Article III, Texas Constitution. If this
17 Act does not receive the vote necessary for immediate effect, this
18 Act takes effect September 1, 2023.