

HOUSE AMENDMENT NO. ____
TO
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Offered By

AMEND House Amendment No. ____ to House Committee Substitute for Senate Substitute No. 2 for Senate Bill No. 26, Page 2, Line 15, by inserting after said line the following:

"Further amend said bill, Page 9, Section 590.502, Line 175, by inserting after said section and line the following:

"590.1065. 1. The provisions of this section shall be known and may be cited as the "Law Enforcement Accountability Act".

2. A peace officer shall intervene to prevent or stop another peace officer from using physical force that exceeds the degree of force permitted under this chapter in pursuance of the other peace officer's law enforcement duties in carrying out an arrest of any person, placing any person under detention, taking any person into custody, booking any person, or in the process of crowd or riot control without regard to chain of command.

3. A peace officer who intervenes as required under subsection 1 of this section shall report the intervention to his or her immediate supervisor. At a minimum, the report required under this subsection shall include:

(1) The date, time, and place of the occurrence;

(2) The identity, if known and description of the participants; and

(3) A description of the intervention actions taken.

Such report shall be made in writing within ten days of the occurrence of the use of such force and shall be appended to all other reports of the incident.

4. A member of a law enforcement agency shall not discipline or retaliate in any way against a peace officer for intervening as required under subsection 1 of this section, reporting unconstitutional conduct, or failing to follow what the peace officer reasonably believes is an unconstitutional directive.

5. When an internal investigation finds that a peace officer failed to intervene or prevent the use of unlawful physical force under this section, such finding shall be presented to the prosecuting attorney for a determination as to whether charges should be filed. However, nothing in this subsection prohibits the prosecuting attorney from charging a peace officer with failure to intervene before the conclusion of any internal investigation.

6. In addition to any criminal liability and penalty, when an internal investigation finds that a peace officer failed to intervene or prevent the use of unlawful physical force under this section in an incident resulting in serious bodily injury or death to any person, the peace officer's employer

Action Taken _____ Date _____

1 shall subject the peace officer to discipline, up to and including termination, to the extent permitted
2 under applicable constitutional and statutory law, and the POST Commission shall revoke the
3 peace officer's certification under chapter 590 upon receipt of notice of the peace officer's discipline.
4 Such revocation may only be overturned if the peace officer is exonerated by a court.

5 7. In a case in which the prosecution charges a peace officer with offenses related to and
6 based on the use of excessive force but does not file charges against any other peace officer or
7 officers who were at the scene during the use of force, the prosecuting attorney shall prepare a
8 written report explaining his or her basis for the decision not to charge any other peace officer with
9 criminal conduct and shall disclose the report to the public; except that if disclosure of the report
10 would substantially interfere with or jeopardize an ongoing criminal investigation, the prosecuting
11 attorney may delay public disclosure for up to forty-five days. The prosecuting attorney shall post
12 the written report on its website or, if it does not have a website, make it publicly available upon
13 request.

14 8. The offense of failing to intervene to prevent the use of unlawful force under this section
15 is considered an act of complicity and the penalty for such act shall be equal to the penalty imposed
16 against the peace officer who committed the original wrongdoing for which the peace officer failed
17 to intervene. Nothing in this subsection shall prohibit or discourage prosecution of any other
18 criminal offense related to failure to intervene, including a higher charge, if supported by the
19 evidence."; and"; and

20
21 Further amend said bill by amending the title, enacting clause, and intersectional references
22 accordingly.

23
24 THIS AMENDMENT AMENDS 0828H05.42H.