

BILL ANALYSIS

C.S.H.B. 3039
By: Blanco
Defense & Veterans' Affairs
Committee Report (Substituted)

BACKGROUND AND PURPOSE

Interested parties express concern that some armed forces members do not report being the victim of certain sexually misconduct out of fear of retaliation from their peers or superiors. C.S.H.B. 3039 seeks to address these concerns by providing certain protections for members of the Texas military forces not in federal service who report an incident of sexual assault, sexual harassment, or other sexual misconduct.

CRIMINAL JUSTICE IMPACT

It is the committee's opinion that this bill expressly does one or more of the following: creates a criminal offense, increases the punishment for an existing criminal offense or category of offenses, or changes the eligibility of a person for community supervision, parole, or mandatory supervision.

RULEMAKING AUTHORITY

It is the committee's opinion that this bill does not expressly grant any additional rulemaking authority to a state officer, department, agency, or institution.

ANALYSIS

C.S.H.B. 3039 amends the Government Code to prohibit a member of the Texas state military forces not in federal service from being held for trial by court-martial or punished under the Texas Code of Military Justice for an offense based solely on the person's conduct of filing a report as a victim of or witness to an incident of sexual assault, sexual harassment, including online sexual harassment, or other sexual misconduct unless the person knows the report is false or baseless. That prohibition expressly applies to an offense committed before, on, or after the bill's effective date, except that a final conviction for an offense that exists on the bill's effective date is unaffected by the bill.

C.S.H.B. 3039 prohibits a person from taking or threatening to take an unfavorable personnel action or from withholding or threatening to withhold a favorable personnel action to prevent a member of the state military forces from communicating with the Texas Military Department, the office of the governor, the office of the attorney general, a member of the legislature, or a law enforcement agency regarding an allegation of sexual assault, sexual harassment, including online sexual harassment, or other sexual misconduct or to retaliate against a member of the state military forces for reporting or planning to report such an allegation. The bill creates a Class A misdemeanor offense for a person who violates that prohibition and requires a person subject to the Texas Code of Military Justice who violates that prohibition to be punished as a court-martial directs.

EFFECTIVE DATE

On passage, or, if the bill does not receive the necessary vote, September 1, 2017.

COMPARISON OF ORIGINAL AND SUBSTITUTE

While C.S.H.B. 3039 may differ from the original in minor or nonsubstantive ways, the following comparison is organized and formatted in a manner that indicates the substantial differences between the introduced and committee substitute versions of the bill.

INTRODUCED

No equivalent provision.

SECTION 1. Subchapter J, Chapter 432, Government Code, is amended by adding Section 432.1211 to read as follows:

Sec. 432.1211. REPORT OF SEXUAL ASSAULT. A person subject to this chapter may not be held for trial by court-martial or punished under this chapter for an offense based solely on the person's conduct of filing a report as a victim of or witness to an incident of sexual assault.

No equivalent provision.

No equivalent provision.

HOUSE COMMITTEE SUBSTITUTE

SECTION 1. This Act shall be known as the Texas Military Justice and Protection Act.

SECTION 2. Subchapter J, Chapter 432, Government Code, is amended by adding Section 432.1211 to read as follows:

Sec. 432.1211. REPORT OF SEXUAL ASSAULT OR SEXUAL HARASSMENT. A person subject to this chapter may not be held for trial by court-martial or punished under this chapter for an offense based solely on the person's conduct of filing a report as a victim of or witness to an incident of sexual assault, sexual harassment, including online sexual harassment, or other sexual misconduct unless the person knows the report is false or baseless.

SECTION 3. Subchapter J, Chapter 432, Government Code, is amended by adding Section 432.168 to read as follows:

Sec. 432.168. RETALIATION AND SUPPRESSION. A person subject to this chapter who violates Section 437.233 shall be punished as a court-martial directs.

SECTION 4. Subchapter E, Chapter 437, Government Code, is amended by adding Section 437.233 to read as follows:

Sec. 437.233. CERTAIN RETALIATION AND SUPPRESSION PROHIBITED; OFFENSE. (a) A person may not take or threaten to take an unfavorable personnel action or withhold or threaten to withhold a favorable personnel action to:
(1) prevent a member of the state military forces from communicating with the department, the office of the governor, the office of the attorney general, a member of the legislature, or a law enforcement agency regarding an allegation of sexual assault, sexual harassment, including online sexual harassment, or other sexual misconduct; or
(2) retaliate against a member of the state military forces for reporting or planning to

report an allegation of sexual assault, sexual harassment, including online sexual harassment, or other sexual misconduct.

(b) A person commits an offense if the person violates Subsection (a). An offense under this subsection is a Class A misdemeanor.

SECTION 2. The change in law made by this Act applies to an offense under Chapter 432, Government Code, committed before, on, or after the effective date of this Act, except that a final conviction for an offense under Chapter 432, Government Code, that exists on the effective date of this Act is unaffected by this Act.

SECTION 3. This Act takes effect immediately if it receives a vote of two-thirds of all the members elected to each house, as provided by Section 39, Article III, Texas Constitution. If this Act does not receive the vote necessary for immediate effect, this Act takes effect September 1, 2017.

SECTION 5. Substantially the same as introduced version.

SECTION 6. Same as introduced version.