

**SUBJECT:** Requiring the corroboration of certain undercover witness testimony

**COMMITTEE:** Criminal Jurisprudence — favorable, without amendment

**VOTE:** 8 ayes — Moody, Bhojani, Bowers, Darby, Harrison, Leach, C. Morales, Schatzline  
  
1 nay — Cook

**WITNESSES:** For — Kathy Mitchell, Just Liberty (*Registered, but did not testify*: Lauren Johnson, ACLU of Texas; Charlie Malouff, Texas C.U.R.E., Inc; Shea Place, Texas Criminal Defense Lawyers Association; Thomas Parkinson)  
  
Against — (*Registered, but did not testify*: Jennifer Szimanski, Combined Law Enforcement Associations of Texas; James Parnell, Dallas Police Association; Robin Foster, Harris County Deputies' Organization FOP #39; Ray Hunt, HPOU; Lindy Borchardt, Phil Sorrells, Tarrant County Criminal District Attorney; Carlos Ortiz, San Antonio Police Officers Association; John Wilkerson, Texas Municipal Police Association; Richard Bohnert)

**BACKGROUND:** Code of Criminal Procedure art. 38.141 requires that a person who is not a licensed peace officers or a special investigator, but is working covertly on behalf of a law enforcement agency, must have the person's testimony corroborated by certain other evidence in order for it to be considered when convicting a person for an offense under the Texas Controlled Substances Act.  
  
Some have suggested that requiring corroboration for undercover witness testimony by law enforcement would provide better protection against police misconduct.

**DIGEST:** HB 412 would amend Code of Criminal Procedure art. 38.141 such that the testimony of any person working covertly on behalf of a law enforcement agency, regardless of whether or not the person was a

licensed peace officer or special investigator, would be required to be corroborated by other evidence before a defendant could be convicted on the testimony for an offense under the Texas Controlled Substances Act.

The bill would take effect September 1, 2023 and would apply only to cases in which a judgment was entered before the effective date.