

By: Krause

H.B. No. 1757

A BILL TO BE ENTITLED

AN ACT

1
2 relating to recordings of peace officer performance of official
3 duties and interactions with the public; creating a criminal
4 offense.

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

6 SECTION 1. Chapter 2, Code of Criminal Procedure, is
7 amended by adding Article 2.13851 to read as follows:

8 Art. 2.13851. NOTICE OF RECORDING INTERACTIONS WITH PUBLIC.

9 (a) Except as provided by this article, if during the performance
10 of the peace officer's official duties a peace officer makes a video
11 or audio recording of the officer's interaction with a person, the
12 peace officer must immediately disclose to the person that the
13 officer is recording the interaction and the method by which the
14 officer is making the recording.

15 (b) A peace officer is not required to make the disclosure
16 under Subsection (a) if the peace officer's interaction with a
17 person occurs as part of an ongoing criminal investigation.

18 (c) A peace officer is not required to make the disclosure
19 under Subsection (a) immediately if making the disclosure
20 immediately would be unsafe, unrealistic, or impracticable. Any
21 justification for failing to make the disclosure immediately
22 because it would be unsafe, unrealistic, or impracticable is based
23 on whether a reasonable officer under the same or similar
24 circumstances would have made the same decision.

1 SECTION 2. Sections 37.09(c) and (d), Penal Code, are
2 amended to read as follows:

3 (c) An offense under Subsection (a), ~~[or Subsection]~~
4 (d)(1), or (d)(3) is a felony of the third degree, unless the thing
5 altered, destroyed, or concealed is a human corpse, in which case
6 the offense is a felony of the second degree. An offense under
7 Subsection (d)(2) is a Class A misdemeanor.

8 (d) A person commits an offense if the person:

9 (1) knowing that an offense has been committed,
10 alters, destroys, or conceals any record, document, or thing with
11 intent to impair its verity, legibility, or availability as
12 evidence in any subsequent investigation of or official proceeding
13 related to the offense; ~~[or]~~

14 (2) observes a human corpse under circumstances in
15 which a reasonable person would believe that an offense had been
16 committed, knows or reasonably should know that a law enforcement
17 agency is not aware of the existence of or location of the corpse,
18 and fails to report the existence of and location of the corpse to a
19 law enforcement agency; or

20 (3) is a peace officer or other employee of a law
21 enforcement agency who alters, destroys, or conceals another
22 person's audio, visual, or photographic recording of a peace
23 officer's performance of official duties without obtaining that
24 other person's written consent.

25 SECTION 3. Section 38.15(c), Penal Code, is amended to read
26 as follows:

27 (c) It is a defense to prosecution under Subsection (a)(1)

1 that the conduct engaged in by the defendant:

2 (1) was intended to warn a person operating a motor
3 vehicle of the presence of a peace officer who was enforcing
4 Subtitle C, Title 7, Transportation Code; or

5 (2) consisted only of filming, recording,
6 photographing, documenting, or observing a peace officer, if before
7 or while engaging in the conduct, the defendant obeyed any
8 reasonable and lawful order by a peace officer to change the
9 defendant's proximity or position.

10 SECTION 4. Section 542.501, Transportation Code, is amended
11 to read as follows:

12 Sec. 542.501. OBEDIENCE REQUIRED TO PEACE [~~POLICE~~]
13 OFFICERS, SCHOOL CROSSING GUARDS, AND ESCORT FLAGGERS. (a) A
14 person may not wilfully fail or refuse to comply with a lawful order
15 or direction of:

16 (1) a peace [~~police~~] officer, subject to Subsection
17 (b);

18 (2) a school crossing guard who:

19 (A) is performing crossing guard duties in a
20 school crosswalk to stop and yield to a pedestrian; or

21 (B) has been trained under Section 600.004 and is
22 directing traffic in a school crossing zone; or

23 (3) an escort flagger who is directing or controlling
24 the flow of traffic in accordance with a permit issued by the Texas
25 Department of Motor Vehicles under Subtitle E for the movement of an
26 oversize or overweight vehicle.

27 (b) Subsection (a)(1) does not apply to an order or

1 direction to cease filming, recording, photographing, documenting,
2 or observing a peace officer while the officer is engaged in the
3 performance of official duties. This subsection does not prohibit a
4 peace officer from giving the person a reasonable and lawful order
5 or direction to change the person's proximity or position relative
6 to a peace officer who is engaged in the performance of official
7 duties.

8 SECTION 5. Section 37.09, Penal Code, as amended by this
9 Act, applies only to an offense committed on or after the effective
10 date of this Act. An offense committed before the effective date of
11 this Act is governed by the law in effect on the date the offense was
12 committed, and the former law is continued in effect for that
13 purpose. For purposes of this section, an offense was committed
14 before the effective date of this Act if any element of the offense
15 occurred before that date.

16 SECTION 6. (a) Except as provided by Subsection (b) of this
17 section, Section 38.15, Penal Code, and Section 542.501,
18 Transportation Code, as amended by this Act, apply to the
19 prosecution of an offense under one of those sections commenced
20 before, on, or after the effective date of this Act.

21 (b) A final conviction for an offense under Section 38.15,
22 Penal Code, or Section 542.501, Transportation Code, that exists on
23 the effective date of this Act is unaffected by this Act.

24 SECTION 7. This Act takes effect September 1, 2021.