

AN ACT

relating to law enforcement's use of force by means of a drone.

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

SECTION 1. Chapter 2, Code of Criminal Procedure, is amended by adding Article 2.33 to read as follows:

Art. 2.33. LAW ENFORCEMENT POLICY ON USE OF FORCE BY DRONE.

(a) In this article:

(1) "Drone" means an unmanned aircraft, watercraft, or ground vehicle or a robotic device that:

(A) is controlled remotely by a human operator;

or

(B) operates autonomously through computer software or other programming.

(2) "Law enforcement agency" means an agency of the state or an agency of a political subdivision of the state authorized by law to employ peace officers.

(b) Each law enforcement agency that uses or intends to use a drone for law enforcement purposes shall:

(1) adopt a written policy regarding the agency's use of force by means of a drone, before the agency first uses a drone, and update the policy as necessary; and

(2) not later than January 1 of each even-numbered year, submit the policy to the Texas Commission on Law Enforcement in the manner prescribed by the commission.

1 SECTION 2. Subchapter E, Chapter 9, Penal Code, is amended
2 by adding Section 9.54 to read as follows:

3 Sec. 9.54. LIMITATION ON USE OF FORCE BY DRONE. (a) In this
4 section:

5 (1) "Autonomous drone" means a drone that operates
6 autonomously through computer software or other programming.

7 (2) "Drone" and "law enforcement agency" have the
8 meanings assigned by Article 2.33, Code of Criminal Procedure.

9 (b) Notwithstanding any other law, the use of force,
10 including deadly force, involving a drone is justified under this
11 subchapter only if:

12 (1) at the time the use of force occurred, the actor
13 was employed by a law enforcement agency;

14 (2) the use of force:

15 (A) would have been justified under another
16 provision of this subchapter; and

17 (B) did not involve the use of deadly force by
18 means of an autonomous drone; and

19 (3) before the use of force occurred, the law
20 enforcement agency employing the actor adopted and submitted to the
21 Texas Commission on Law Enforcement a policy on the agency's use of
22 force by means of a drone, as required by Article 2.33, Code of
23 Criminal Procedure, and the use of force conformed to the
24 requirements of that policy.

25 SECTION 3. Not later than January 1, 2022, each law
26 enforcement agency in this state that uses or intends to use a
27 drone, as defined by Article 2.33, Code of Criminal Procedure, as

1 added by this Act, for law enforcement purposes shall:

2 (1) adopt the policy required by Article 2.33, Code of
3 Criminal Procedure, as added by this Act; and

4 (2) submit the policy to the Texas Commission on Law
5 Enforcement as required by that article.

6 SECTION 4. Section 9.54, Penal Code, as added by this Act,
7 applies only to an offense committed on or after January 1, 2022.
8 An offense committed before January 1, 2022, is governed by the law
9 in effect on the date the offense was committed, and the former law
10 is continued in effect for that purpose. For purposes of this
11 section, an offense was committed before January 1, 2022, if any
12 element of the offense occurred before that date.

13 SECTION 5. This Act takes effect September 1, 2021.

President of the Senate

Speaker of the House

I certify that H.B. No. 1758 was passed by the House on April 30, 2021, by the following vote: Yeas 125, Nays 1, 1 present, not voting; that the House refused to concur in Senate amendments to H.B. No. 1758 on May 28, 2021, and requested the appointment of a conference committee to consider the differences between the two houses; and that the House adopted the conference committee report on H.B. No. 1758 on May 30, 2021, by the following vote: Yeas 103, Nays 40, 1 present, not voting.

Chief Clerk of the House

H.B. No. 1758

I certify that H.B. No. 1758 was passed by the Senate, with amendments, on May 24, 2021, by the following vote: Yeas 28, Nays 2; at the request of the House, the Senate appointed a conference committee to consider the differences between the two houses; and that the Senate adopted the conference committee report on H.B. No. 1758 on May 30, 2021, by the following vote: Yeas 26, Nays 5.

Secretary of the Senate

APPROVED: _____

Date

Governor