

By: Krause

H.B. No. 1758

Substitute the following for H.B. No. 1758:

By: Tinderholt

C.S.H.B. No. 1758

A BILL TO BE ENTITLED

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 shall:

(1) adopt a written policy regarding the agency's use of force by means of 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.

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

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

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

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

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

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

12           (2) the use of force:

13                (A) would have been justified under another  
14 provision of this subchapter; and

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

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

23        SECTION 3. Not later than January 1, 2022, each law  
24 enforcement agency in this state shall:

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

27           (2) submit the policy to the Texas Commission on Law

1 Enforcement as required by that article.

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

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