

By: Estes

S.B. No. 897

A BILL TO BE ENTITLED

AN ACT

relating to the offenses of interference with public duties,  
required obedience to the order or direction of a police officer,  
and assault, certain unsuccessful prosecutions therefor, and  
related civil liability of a governmental unit.

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

SECTION 1. Title 5, Civil Practice and Remedies Code, is  
amended by adding Chapter 112 to read as follows:

CHAPTER 112. LIABILITY OF GOVERNMENTAL UNIT FOR CERTAIN  
UNSUCCESSFUL PROSECUTIONS

Sec. 112.001. DEFINITION. In this chapter, "governmental  
unit" has the meaning assigned by Section 101.001.

Sec. 112.002. LIABILITY FOR CERTAIN RETALIATORY  
PROSECUTIONS. (a) A person who is prosecuted for an offense under  
Section 22.01(a)(1), Penal Code, Section 38.15(a)(1), Penal Code,  
or Section 542.501(a)(1), Transportation Code, and is acquitted of  
the offense may recover in a civil action against the governmental  
unit that employed any peace officer who accused the person of the  
offense of which the person was acquitted if the person shows by a  
preponderance of the evidence that:

(1) the person was filming, recording, photographing,  
documenting, or observing the peace officer; and

(2) the peace officer's accusation was made in  
retaliation for the person's act of filming, recording,

1 photographing, or observing the peace officer.

2 Sec. 112.003. REMEDIES. A person who prevails in a suit  
3 against a governmental unit described in Section 112.002 of this  
4 chapter shall be entitled to recover only:

5 (1) the person's reasonable attorney's fees incurred  
6 in connection with the prosecution; and

7 (2) three times the amount of any actual damages  
8 incurred by the person arising from damage by a peace officer to any  
9 recording equipment used in connection with the conduct which  
10 resulted in the retaliatory prosecution.

11 Sec. 112.004. SOVEREIGN IMMUNITY WAIVED. Sovereign  
12 immunity to suit and liability is waived and abolished to the extent  
13 of liability created by this chapter.

14 SECTION 2. Section 38.15(c), Penal Code, is amended to read  
15 as follows:

16 (c) It is a defense to prosecution under Subsection (a)(1)  
17 that the conduct engaged in by the defendant :

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

21 (2) consisted only of filming, recording,  
22 photographing, documenting, or observing a peace officer.

23 SECTION 3. Section 542.501, Transportation Code, is amended  
24 to read as follows:

25 Sec. 542.501. OBEDIENCE REQUIRED TO POLICE OFFICERS AND TO  
26 SCHOOL CROSSING GUARDS. (a) A person may not willfully fail or  
27 refuse to comply with a lawful order or direction of:

1           (1) a police officer; or

2           (2) a school crossing guard who:

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

5                 (B) has been trained under Section 600.004 and is  
6 directing traffic in a school crossing zone.

7           (b) Subsection (a)(1) does not apply to an order or  
8 direction to cease filming, recording, photographing, documenting,  
9 or observing a police officer while the officer is engaged in the  
10 performance of official duties.

11           SECTION 4. Chapter 112, Civil Practice and Remedies Code,  
12 as added by this Act, applies only with respect to a prosecution of  
13 an offense committed on or after the effective date of this Act.

14           SECTION 5. (a) Except as provided by Subsection (b) of  
15 this section, Section 38.15, Penal Code, and Section 542.501,  
16 Transportation Code, as amended by this Act, apply to the  
17 prosecution of an offense under one of those sections commenced  
18 before, on, or after the effective date of this Act.

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

22           SECTION 6. This Act takes effect September 1, 2013.