

By: Villalba

H.B. No. 368

A BILL TO BE ENTITLED

1 AN ACT
2 relating to the duties of a peace officer investigating a family
3 violence allegation or responding to a disturbance call that may
4 involve family violence and the admissibility of certain evidence
5 obtained during that investigation or response.

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

7 SECTION 1. Article 5.04, Code of Criminal Procedure, is
8 amended by adding Subsections (d), (e), and (f) to read as follows:

9 (d) A peace officer who investigates a family violence
10 allegation or who responds to a disturbance call that may involve
11 family violence shall take a video recording of the officer's
12 interactions and conversations with the suspect and any possible
13 victim, if a video recorder is available for that purpose from the
14 law enforcement agency that employs the officer. If the officer
15 obtains the consent of the possible victim or that person's parent
16 or legal guardian, if the possible victim is a minor, the officer
17 shall take a:

18 (1) video recording of any visible physical injury of
19 the possible victim; or

20 (2) photograph of any visible physical injury of the
21 possible victim, if a video recorder is not available for that
22 purpose from the law enforcement agency that employs the officer
23 but a camera is provided by that agency.

24 (e) Evidence obtained under Subsection (d) is admissible in

1 any criminal, civil, or administrative proceeding.

2 (f) Notwithstanding Rule 801, Texas Rules of Evidence, a
3 video recording made under Subsection (d) that contains a statement
4 of a witness, including the victim, regarding the alleged offense
5 is not inadmissible as hearsay and may be used to prove the truth of
6 the matter asserted or to impeach the witness's credibility, if:

7 (1) the witness's testimony during a trial, hearing,
8 deposition, or other proceeding is inconsistent with the statement;
9 and

10 (2) at a proceeding that occurred before the witness's
11 testimony under Subdivision (1), the witness:

12 (A) affirmed under oath the veracity and
13 completeness of the statement contained in the video recording; and

14 (B) was subject to cross-examination concerning
15 the veracity and completeness of the statement.

16 SECTION 2. Article 5.05, Code of Criminal Procedure, is
17 amended by amending Subsection (a) and adding Subsection (a-3) to
18 read as follows:

19 (a) A peace officer who investigates a family violence
20 incident or who responds to a disturbance call that may involve
21 family violence shall make a written report, including but not
22 limited to:

23 (1) the names of the suspect and complainant;

24 (2) the date, time, and location of the incident;

25 (3) any visible or reported injuries;

26 (4) a description of the incident and a statement of
27 its disposition; ~~and~~

1 (5) whether the suspect is a member of the state
2 military forces or is serving in the armed forces of the United
3 States in an active-duty status; and

4 (6) whether the officer took a video recording or
5 photograph under Article 5.04(d).

6 (a-3) If the peace officer indicates under Subsection
7 (a)(6) that the officer has taken a video recording or photograph
8 under Article 5.04(d), the officer shall include the recording or
9 photograph with the written report described by Subsection (a).

10 SECTION 3. The change in law made by this Act applies only
11 to a peace officer's investigation or response that occurs on or
12 after the effective date of this Act. A peace officer's
13 investigation or response that occurs before the effective date of
14 this Act is governed by the law in effect on the date the
15 investigation was conducted or the response was made, and the
16 former law is continued in effect for that purpose.

17 SECTION 4. This Act takes effect September 1, 2015.