

By: Estes

S.B. No. 621

A BILL TO BE ENTITLED

AN ACT

relating to criminal offenses involving, and governmental liability for retaliatory prosecutions associated with, the filming, recording, photographing, documenting, or observing of a peace officer.

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 person who is prosecuted for an offense under Section 22.01(a)(1) or 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, documenting, or observing the peace officer.

2 Sec. 112.003. REMEDY. A person who prevails in a suit
3 against a governmental unit under Section 112.002 is entitled to
4 recover only the person's reasonable attorney's fees incurred in
5 connection with the retaliatory prosecution.

6 Sec. 112.004. SOVEREIGN IMMUNITY WAIVED. Sovereign
7 immunity to suit and liability is waived and abolished to the extent
8 of liability created by this chapter.

9 SECTION 2. Section 22.01, Penal Code, is amended by adding
10 Subsection (f-1) to read as follows:

11 (f-1) It is a defense to prosecution under Subsection (a)(1)
12 that the conduct engaged in by the defendant consisted only of
13 filming, recording, photographing, documenting, or observing a
14 peace officer.

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

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

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

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

24 SECTION 4. Section 542.501, Transportation Code, is amended
25 to read as follows:

26 Sec. 542.501. OBEDIENCE REQUIRED TO PEACE [~~POLICE~~] OFFICERS
27 AND TO SCHOOL CROSSING GUARDS. (a) A person may not wilfully fail

1 or refuse to comply with a lawful order or direction of:

2 (1) a peace [~~police~~] officer; or

3 (2) a school crossing guard who:

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

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

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

12 SECTION 5. Chapter 112, Civil Practice and Remedies Code,
13 as added by this Act, applies only with respect to a prosecution of
14 an offense committed on or after the effective date of this Act.

15 SECTION 6. (a) Except as provided by Subsection (b) of this
16 section, Sections 22.01 and 38.15, Penal Code, and Section 542.501,
17 Transportation Code, as amended by this Act, apply to the
18 prosecution of an offense under one of those sections commenced
19 before, on, or after the effective date of this Act.

20 (b) A final conviction for an offense under Section 22.01 or
21 38.15, Penal Code, or Section 542.501, Transportation Code, that
22 exists on the effective date of this Act is unaffected by this Act.

23 SECTION 7. This Act takes effect September 1, 2015.