

BILL ANALYSIS

S.B. 1487
By: West
Criminal Jurisprudence
Committee Report (Unamended)

BACKGROUND AND PURPOSE

Interested parties contend that clarification is needed to address the release of certain law enforcement recordings of motor vehicle stops. S.B. 1487 seeks to bring clarity to this issue and to issues relating to prohibited racial profiling and video and audio equipment used by law enforcement agencies.

CRIMINAL JUSTICE IMPACT

It is the committee's opinion that this bill expressly does one or more of the following: creates a criminal offense, increases the punishment for an existing criminal offense or category of offenses, or changes the eligibility of a person for community supervision, parole, or mandatory supervision.

RULEMAKING AUTHORITY

It is the committee's opinion that this bill does not expressly grant any additional rulemaking authority to a state officer, department, agency, or institution.

ANALYSIS

S.B. 1487 transfers certain provisions of the Code of Criminal Procedure relating to prohibited racial profiling, motor vehicle stops, and the collection of related information to the Occupations Code and amends those provisions. The bill transfers the authority to adopt rules to implement these provisions from the Department of Public Safety (DPS) to the public safety director of DPS and revises the requirements for the policy on racial profiling that each law enforcement agency in Texas is required to adopt. The bill sets out requirements for a law enforcement agency that installs video or audio equipment in law enforcement motor vehicles and motorcycles regularly used to make motor vehicle stops in regard to a policy adopted for the use of that equipment. The bill authorizes a law enforcement agency operating video or audio equipment on the bill's effective date to submit any existing policy of the agency regarding the use of the equipment to the Texas Commission on Law Enforcement (TCOLE) to determine whether the policy complies with the bill's requirements and expressly does not require such a law enforcement agency to adopt or implement a policy that complies with the bill's requirements before September 1, 2018. The bill removes a provision requiring TCOLE to begin disciplinary procedure against a chief administrator of a law enforcement agency on a TCOLE finding that the administrator intentionally failed to submit the required annual report of collected information concerning motor vehicle stops in which a citation is issued and arrests made as a result of those stops.

S.B. 1487 amends the Code of Criminal Procedure to specify that, for purposes of the prohibition against racial profiling by a peace officer, racial profiling means an act of racial profiling as defined by the required written policy on racial profiling adopted by the law enforcement agency employing the officer.

S.B. 1487 amends the Occupations Code to require a peace officer who uses a motor vehicle or motorcycle equipped with video or audio equipment to act in a manner that is consistent with the policy of the law enforcement agency that employs the officer with respect to when and under what circumstances the equipment must be activated and sets out provisions relating to a peace officer who does not activate video or audio equipment in response to a call for assistance or on making a motor vehicle stop. The bill prohibits a video or audio recording documenting an incident that involves the use of deadly force by a peace officer or that is otherwise related to an administrative or criminal investigation of an officer from being deleted, destroyed, or released to the public until all criminal matters have been finally adjudicated and all related administrative investigations have concluded but authorizes a law enforcement agency to release such a recording to the public if the law enforcement agency determines that the release furthers a law enforcement purpose. This provision expressly does not affect the authority of a law enforcement agency to withhold, under state public information law, information related to a closed criminal investigation that did not result in a conviction or a grant of deferred adjudication community supervision.

S.B. 1487 sets out provisions relating to a written request by a member of the public for a law enforcement video or audio recording under the bill's provisions and sets out the actions a law enforcement agency may take in response to such a request. The bill requires the attorney general to set a proposed fee to be charged to members of the public who seek to obtain a copy of a recording that is sufficient to cover the cost of reviewing and making the recording and establishes the conditions under which a recording is considered confidential and excepted from the requirements of state public information law. The bill establishes the timeliness of a governmental body's request for a decision from the attorney general about whether a requested recording falls within an exception to public disclosure, of a governmental body's response to a requestor regarding a requested recording, of a governmental body's submission to a requestor of the required information, and of a governmental body's submission to the attorney general or requestor of certain required information. The bill sets out the conditions under which an officer for public information who is employed by a governmental body and who receives a voluminous request, as described by the bill, for a recording is considered to have promptly produced the information for purposes of state public information law. The bill creates a Class A misdemeanor offense for a peace officer or other employee of a law enforcement agency who releases a recording under the bill's provisions without permission of the applicable law enforcement agency. Provisions relating to the release of a law enforcement recording apply to a release of a recording on or after the bill's effective date, regardless of whether the incident that is the subject of the recording occurred before, on, or after that date.

EFFECTIVE DATE

September 1, 2017.