

By: West

S.B. No. 332

A BILL TO BE ENTITLED

AN ACT

1
2 relating to preventing racial profiling and to video and audio
3 equipment and recordings of certain law enforcement motor vehicle
4 stops; creating an offense.

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

6 SECTION 1. Article 2.131, Code of Criminal Procedure, is
7 amended to read as follows:

8 Art. 2.131. RACIAL PROFILING PROHIBITED. A peace officer
9 may not engage in an act of racial profiling, as defined by the
10 written policy required by Article 2.132(b) and adopted by the law
11 enforcement agency employing the officer.

12 SECTION 2. Article 2.132, Code of Criminal Procedure, is
13 amended by amending Subsection (d) and adding Subsection (d-1) to
14 read as follows:

15 (d) On adoption of a policy under Subsection (b), a law
16 enforcement agency shall examine the feasibility of installing
17 video camera and transmitter-activated equipment in each agency law
18 enforcement motor vehicle regularly used to make motor vehicle
19 stops and transmitter-activated equipment in each agency law
20 enforcement motorcycle regularly used to make motor vehicle stops.
21 The agency also shall examine the feasibility of equipping each
22 peace officer who regularly detains or stops motor vehicles with a
23 body worn camera, as that term is defined by Section 1701.651,
24 Occupations Code. If a law enforcement agency installs video or

1 audio equipment or equips peace officers with body worn cameras as
2 provided by this subsection, the policy adopted by the agency under
3 Subsection (b) must include:

4 (1) guidelines for when a peace officer should
5 activate the camera or other equipment or discontinue a recording
6 currently in progress;

7 (2) provisions relating to data retention, including a
8 provision requiring the retention of [standards for reviewing]
9 video and audio recordings for a minimum period of 90 days;

10 (3) provisions relating to storage of video and audio
11 recordings, creation of backup copies of the recordings, and
12 maintenance of data security;

13 (4) guidelines for public access, through open records
14 requests, to recordings that are public information;

15 (5) procedures for supervisory or internal review; and

16 (6) the handling and documenting of equipment and
17 malfunctions of equipment [documentation].

18 (d-1) A policy adopted under this article must be consistent
19 with the Federal Rules of Evidence and Texas Rules of Evidence.

20 SECTION 3. Chapter 2, Code of Criminal Procedure, is
21 amended by adding Articles 2.1325, 2.13851, 2.13852, 2.13853,
22 2.13854, and 2.13855 to read as follows:

23 Art. 2.1325. RECORDING INTERACTIONS WITH THE PUBLIC. (a)
24 In this article, "motor vehicle stop" has the meaning assigned by
25 Article 2.132(a).

26 (b) A peace officer who uses a law enforcement motor vehicle
27 or motorcycle equipped with video or audio equipment described by

1 Article 2.132(d) shall act in a manner that is consistent with the
2 policy of the law enforcement agency that employs the officer with
3 respect to when and under what circumstances the equipment must be
4 activated.

5 (c) A peace officer who does not activate video or audio
6 equipment in response to a call for assistance or on making a motor
7 vehicle stop must include in the officer's incident report or
8 otherwise note in the case file or record the reason for not
9 activating the equipment.

10 (d) Any justification for failing to activate the equipment
11 because it is unsafe, unrealistic, or impracticable is based on
12 whether a reasonable officer under the same or similar
13 circumstances would have made the same decision.

14 Art. 2.13851. RECORDINGS DOCUMENTING CERTAIN CONDUCT OF LAW
15 ENFORCEMENT OFFICER. (a) Except as provided by Subsection (b), a
16 video or audio recording under Article 2.1325 documenting an
17 incident that involves the use of deadly force by a peace officer or
18 that is otherwise related to an administrative or criminal
19 investigation of an officer may not be deleted, destroyed, or
20 released to the public until all criminal matters have been finally
21 adjudicated and all related administrative investigations have
22 concluded.

23 (b) A law enforcement agency may release to the public a
24 recording described by Subsection (a) if the law enforcement agency
25 determines that the release furthers a law enforcement purpose.

26 (c) This article does not affect the authority of a law
27 enforcement agency to withhold under Section 552.108, Government

1 Code, information related to a closed criminal investigation that
2 did not result in a conviction or a grant of deferred adjudication
3 community supervision.

4 Art. 2.13852. RELEASE OF VIDEO OR AUDIO RECORDING. (a) A
5 member of the public is required to provide the following
6 information when submitting a written request to a law enforcement
7 agency for a video or audio recording under Article 2.1325:

8 (1) the date and approximate time of the recording;

9 (2) the specific location where the recording
10 occurred; and

11 (3) the name of one or more persons known to be a
12 subject of the recording.

13 (b) A failure to provide all of the information required by
14 Subsection (a) to be part of a request for a recording does not
15 preclude the requestor from making a future request for the same
16 recording.

17 (c) Except as provided by Subsection (d), a recording
18 described by Subsection (a) that is held by a law enforcement agency
19 is not subject to the requirements of Section 552.021, Government
20 Code.

21 (d) A recording that is or could be used as evidence in a
22 criminal prosecution is subject to the requirements of Section
23 552.021, Government Code.

24 (e) A law enforcement agency may:

25 (1) seek to withhold a recording subject to Subsection
26 (d) in accordance with procedures provided by Section 552.301,
27 Government Code;

1 (2) assert any exceptions to disclosure in Chapter
2 552, Government Code, or other law; or

3 (3) release a recording requested in accordance with
4 Subsection (a) after the agency redacts any information made
5 confidential under Chapter 552, Government Code, or other law.

6 (f) The attorney general shall set a proposed fee to be
7 charged to members of the public who seek to obtain a copy of a
8 recording under this article. The fee amount must be sufficient to
9 cover the cost of reviewing and making the recording. A law
10 enforcement agency may provide a copy without charge or at a reduced
11 charge if the agency determines that waiver or reduction of the
12 charge is in the public interest.

13 (g) A recording is confidential and excepted from the
14 requirements of Chapter 552, Government Code, if the recording:

15 (1) was not required to be made under law or under a
16 policy adopted by the appropriate law enforcement agency; and

17 (2) does not relate to a law enforcement purpose.

18 Art. 2.13853. VIDEO AND AUDIO RECORDINGS; REQUEST FOR
19 ATTORNEY GENERAL DECISION. (a) Notwithstanding Section
20 552.301(b), Government Code, a governmental body's request for a
21 decision from the attorney general about whether a requested
22 recording under Article 2.1325 falls within an exception to public
23 disclosure is considered timely if made not later than the 20th
24 business day after the date of receipt of the written request.

25 (b) Notwithstanding Section 552.301(d), Government Code, a
26 governmental body's response to a requestor regarding a requested
27 recording is considered timely if made not later than the 20th

1 business day after the date of receipt of the written request.

2 (c) Notwithstanding Section 552.301(e), Government Code, a
3 governmental body's submission to the attorney general of the
4 information required by that subsection regarding a requested
5 recording is considered timely if made not later than the 25th
6 business day after the date of receipt of the written request.

7 (d) Notwithstanding Section 552.301(e-1), Government Code,
8 a governmental body's submission to a requestor of the information
9 required by that subsection regarding a requested recording is
10 considered timely if made not later than the 25th business day after
11 the date of receipt of the written request.

12 Art. 2.13854. PRODUCTION OF VIDEO OR AUDIO RECORDING IN
13 RESPONSE TO VOLUMINOUS PUBLIC INFORMATION REQUESTS. (a)
14 Notwithstanding Section 552.221(d), Government Code, an officer
15 for public information who is employed by a governmental body and
16 who in accordance with Article 2.13853 receives a voluminous
17 request for recordings under Article 2.1325 is considered to have
18 promptly produced the information for purposes of Section 552.221,
19 Government Code, if the officer takes the actions required under
20 that section before the 21st business day after the date of receipt
21 of the written request.

22 (b) For purposes of this article, "voluminous request"
23 includes:

24 (1) a request for recordings from more than five
25 separate incidents;

26 (2) more than five separate requests for recordings
27 from the same person in a 24-hour period, regardless of the number

1 of incidents included in each request; or

2 (3) a request or multiple requests from the same
3 person in a 24-hour period for recordings that, taken together,
4 constitute more than five total hours of video or audio recordings.

5 Art. 2.13855. OFFENSE. (a) A peace officer or other
6 employee of a law enforcement agency commits an offense if the
7 officer or employee releases without permission of the applicable
8 law enforcement agency a recording.

9 (b) An offense under this article is a Class A misdemeanor.

10 SECTION 4. (a) A law enforcement agency operating video or
11 audio equipment on the effective date of this Act may submit any
12 existing policy of the agency regarding the use of the equipment to
13 the Texas Commission on Law Enforcement to determine whether the
14 policy complies with Article 2.132(d), Code of Criminal Procedure,
15 as amended by this Act.

16 (b) Notwithstanding Article 2.132(d), Code of Criminal
17 Procedure, as amended by this Act, a law enforcement agency
18 operating video or audio equipment on the effective date of this Act
19 is not required to adopt or implement a policy that complies with
20 that article before September 1, 2020.

21 (c) Articles 2.13851, 2.13852, 2.13853, 2.13854, and
22 2.13855, Code of Criminal Procedure, as added by this Act, apply to
23 a release of a recording on or after the effective date of this Act,
24 regardless of whether the incident that is the subject of the
25 recording occurred before, on, or after the effective date of this
26 Act.

27 SECTION 5. This Act takes effect September 1, 2019.