

BILL ANALYSIS

C.S.H.B. 1757
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Homeland Security & Public Safety
Committee Report (Substituted)

BACKGROUND AND PURPOSE

Recent incidents involving citizens recording peace officers, including an incident in which a father was pepper sprayed and arrested by an officer for filming his son's arrest, have highlighted the need for additional reform to ensure that officers are respecting citizens' rights to record these interactions. Though citizens are allowed to record their interactions with peace officers, there have been several cases in the last few years that have shown that current statutes are not strong enough to protect individuals' rights in regards to peace officer recordings. C.S.H.B. 1757 seeks to address this issue by creating a criminal offense for a peace officer who destroys, alters, or conceals an individual's recording of a peace officer in the performance of their official duties and revising requirements for citizens to obey any order given to them by a peace officer.

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

C.S.H.B. 1757 amends the Penal Code to create a third degree felony offense for a peace officer or other employee of a law enforcement agency who alters, destroys, or conceals another person's audio, visual, or photographic recording of a peace officer's performance of official duties without obtaining that other person's written consent. The bill establishes as a defense to prosecution for the offense of interference with public duties that the defendant's conduct consisted only of filming, recording, photographing, documenting, or observing a peace officer, if before or while engaging in the conduct, the defendant obeyed any reasonable and lawful order by a peace officer to change the defendant's proximity or position.

C.S.H.B. 1757 amends the Transportation Code to establish that the offense for wilful failure or refusal to comply with a lawful order or direction of a peace officer does not apply to an officer's order or direction to cease filming, recording, photographing, documenting, or observing a peace officer while the officer is engaged in the performance of official duties. This exception does not prohibit a peace officer from giving the person a reasonable and lawful order or direction to change the person's proximity or position relative to a peace officer who is engaged in the performance of official duties.

C.S.H.B. 1757 applies to the prosecution of an offense involving interference with public duties or wilful failure or refusal to comply with a peace officer's lawful order or direction that is

commenced before, on, or after the bill's effective date but does not affect final convictions for such offenses that exist on the bill's effective date.

EFFECTIVE DATE

September 1, 2021.

COMPARISON OF ORIGINAL AND SUBSTITUTE

While C.S.H.B. 1757 may differ from the original in minor or nonsubstantive ways, the following summarizes the substantial differences between the introduced and committee substitute versions of the bill.

The substitute does not include provisions that appeared in the original requiring a peace officer who makes a video or audio recording of their interaction with a person during the performance of their official officer duties to immediately disclose to the person that the officer is recording the interaction and the method of recording.