

BILL ANALYSIS

Senate Research Center
87R19137 JRR-D

H.B. 1758
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Jurisprudence
5/18/2021
Engrossed

AUTHOR'S / SPONSOR'S STATEMENT OF INTENT

Drone technology presents an innovative approach to policing, and many departments across the state have begun implementing this technology as a matter of policy. The advent of weaponized and autonomous drones is accompanied by a litany of concerns regarding the ethics of policing through drones.

Interested parties contend that it is imperative for state government to begin exploring and inventorying how this technology is used across the state. H.B. 1758 attempts to address these concerns by requiring each state or local law enforcement agency that plans to use drones in the field to submit a written drone policy to the Texas Commission on Law Enforcement. These policies would describe the law enforcement agency's rules of engagement and detail when the use of force by drone is authorized.

Lastly, the legislation recognizes the necessary human element of policing and prohibits the use of deadly force by means of a fully autonomous drone. H.B. 1758 will allow the legislature to take account of the state's various drone policing policies, thus giving policymakers an accurate depiction of how drones are used from one law enforcement jurisdiction to the next.

H.B. 1758 amends current law relating to law enforcement's use of force by means of a drone.

RULEMAKING AUTHORITY

This bill does not expressly grant any additional rulemaking authority to a state officer, institution, or agency.

SECTION BY SECTION ANALYSIS

SECTION 1. Amends Chapter 2, Code of Criminal Procedure, by adding Article 2.33, as follows:

Art. 2.33. LAW ENFORCEMENT POLICY ON USE OF FORCE BY DRONE. (a) Defines "drone" and "law enforcement agency."

(b) Requires each law enforcement agency to:

- (1) adopt a written policy regarding the agency's use of force by means of a drone and update the policy as necessary; and
- (2) not later than January 1 of each even-numbered year, submit the policy to the Texas Commission on Law Enforcement (TCOLE) in the manner prescribed by TCOLE.

SECTION 2. Amends Subchapter E, Chapter 9, Penal Code, by adding Section 9.54, as follows:

Sec. 9.54. LIMITATION ON USE OF FORCE BY DRONE. (a) Defines "autonomous drone," "drone," and "law enforcement agency."

(b) Provides that, notwithstanding any other law, the use of force, including deadly force, involving a drone is justified under Subchapter E (Law Enforcement) only if:

(1) at the time the use of force occurred, the actor was employed by a law enforcement agency;

(2) the use of force:

(A) would have been justified under another provision of Subchapter E; and

(B) did not involve the use of deadly force by means of an autonomous drone; and

(3) before the use of force occurred, the law enforcement agency employing the actor adopted and submitted to TCOLE a policy on the agency's use of force by means of a drone, as required by Article 2.33, Code of Criminal Procedure, and the use of force conformed to the requirements of that policy.

SECTION 3. Requires each law enforcement agency in this state, not later than January 1, 2022, to:

(1) adopt the policy required by Article 2.33, Code of Criminal Procedure, as added by this Act; and

(2) submit the policy to TCOLE as required by that article.

SECTION 4. Makes application of Section 9.54, Penal Code, as added by this Act, prospective to January 1, 2022.

SECTION 5. Effective date: September 1, 2021.