

By: Krause, Sherman, Sr., Ramos

H.B. No. 1757

A BILL TO BE ENTITLED

1 AN ACT
2 relating to recordings of peace officer performance of official
3 duties and interactions with the public; creating a criminal
4 offense.

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

6 SECTION 1. Sections 37.09(c) and (d), Penal Code, are
7 amended to read as follows:

8 (c) An offense under Subsection (a), ~~[or Subsection]~~
9 (d)(1), or (d)(3) is a felony of the third degree, unless the thing
10 altered, destroyed, or concealed is a human corpse, in which case
11 the offense is a felony of the second degree. An offense under
12 Subsection (d)(2) is a Class A misdemeanor.

13 (d) A person commits an offense if the person:

14 (1) knowing that an offense has been committed,
15 alters, destroys, or conceals any record, document, or thing with
16 intent to impair its verity, legibility, or availability as
17 evidence in any subsequent investigation of or official proceeding
18 related to the offense; ~~[or]~~

19 (2) observes a human corpse under circumstances in
20 which a reasonable person would believe that an offense had been
21 committed, knows or reasonably should know that a law enforcement
22 agency is not aware of the existence of or location of the corpse,
23 and fails to report the existence of and location of the corpse to a
24 law enforcement agency; or

1 (3) is a peace officer or other employee of a law
2 enforcement agency who alters, destroys, or conceals another
3 person's audio, visual, or photographic recording of a peace
4 officer's performance of official duties:

5 (A) without obtaining that other person's
6 written consent; and

7 (B) with intent to impair the recording's verity,
8 intelligibility, or availability as evidence in any subsequent
9 investigation of or official proceeding related to the peace
10 officer's performance of official duties.

11 SECTION 2. Section 38.15(c), Penal Code, is amended to read
12 as follows:

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

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

18 (2) consisted only of filming, recording,
19 photographing, documenting, or observing a peace officer, if before
20 or while engaging in the conduct, the defendant obeyed any
21 reasonable and lawful order by a peace officer to change the
22 defendant's proximity or position.

23 SECTION 3. Section 542.501, Transportation Code, is amended
24 to read as follows:

25 Sec. 542.501. OBEDIENCE REQUIRED TO PEACE [~~POLICE~~]
26 OFFICERS, SCHOOL CROSSING GUARDS, AND ESCORT FLAGGERS. (a) A
27 person may not wilfully fail or refuse to comply with a lawful order

1 or direction of:

2 (1) a peace [~~police~~] officer, subject to Subsection
3 (b);

4 (2) a school crossing guard who:

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

7 (B) has been trained under Section 600.004 and is
8 directing traffic in a school crossing zone; or

9 (3) an escort flagger who is directing or controlling
10 the flow of traffic in accordance with a permit issued by the Texas
11 Department of Motor Vehicles under Subtitle E for the movement of an
12 oversize or overweight vehicle.

13 (b) Subsection (a)(1) does not apply to an order or
14 direction to cease filming, recording, photographing, documenting,
15 or observing a peace officer while the officer is engaged in the
16 performance of official duties. This subsection does not prohibit a
17 peace officer from giving the person a reasonable and lawful order
18 or direction to change the person's proximity or position relative
19 to a peace officer who is engaged in the performance of official
20 duties.

21 SECTION 4. Section 37.09, Penal Code, as amended by this
22 Act, applies only to an offense committed on or after the effective
23 date of this Act. An offense committed before the effective date of
24 this Act is governed by the law in effect on the date the offense was
25 committed, and the former law is continued in effect for that
26 purpose. For purposes of this section, an offense was committed
27 before the effective date of this Act if any element of the offense

1 occurred before that date.

2 SECTION 5. (a) Except as provided by Subsection (b) of this
3 section, Section 38.15, Penal Code, and Section 542.501,
4 Transportation Code, as amended by this Act, apply to the
5 prosecution of an offense under one of those sections commenced
6 before, on, or after the effective date of this Act.

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

10 SECTION 6. This Act takes effect September 1, 2021.