

By: Krause, Sherman, Sr.

H.B. No. 1757

Substitute the following for H.B. No. 1757:

By: Tinderholt

C.S.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 without obtaining that  
5 other person's written consent.

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

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

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

13           (2) consisted only of filming, recording,  
14 photographing, documenting, or observing a peace officer, if before  
15 or while engaging in the conduct, the defendant obeyed any  
16 reasonable and lawful order by a peace officer to change the  
17 defendant's proximity or position.

18           SECTION 3. Section 542.501, Transportation Code, is amended  
19 to read as follows:

20           Sec. 542.501. OBEDIENCE REQUIRED TO PEACE [~~POLICE~~]  
21 OFFICERS, SCHOOL CROSSING GUARDS, AND ESCORT FLAGGERS. (a) A  
22 person may not wilfully fail or refuse to comply with a lawful order  
23 or direction of:

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

26           (2) a school crossing guard who:

27                   (A) is performing crossing guard duties in a

1 school crosswalk to stop and yield to a pedestrian; or

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

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

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

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

24 SECTION 5. (a) Except as provided by Subsection (b) of this  
25 section, Section 38.15, Penal Code, and Section 542.501,  
26 Transportation Code, as amended by this Act, apply to the  
27 prosecution of an offense under one of those sections commenced

1 before, on, or after the effective date of this Act.

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

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