

By: West

S.B. No. 972

A BILL TO BE ENTITLED

AN ACT

relating to access to certain law enforcement, corrections, and prosecutorial records under the public information law.

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

SECTION 1. Chapter 2, Code of Criminal Procedure, is amended by adding Article 2.13952 to read as follows:

Art. 2.13952. PUBLIC DATABASE. The office of the attorney general shall establish and maintain on its Internet website a publicly accessible database of reports submitted to the office under Articles 2.139 and 2.1395.

SECTION 2. Section 411.00755(b), Government Code, is amended to read as follows:

(b) The personnel records of a commissioned officer of the department may not be disclosed or otherwise made available to the public, except the department shall release in accordance with Chapter 552:

(1) any letter, memorandum, or document relating to:

(A) a commendation, congratulation, or honor bestowed on the officer for an action, duty, or activity that relates to the officer's official duties; and

(B) misconduct by the officer, if the letter, memorandum, or document resulted in disciplinary action;

(2) the state application for employment submitted by the officer, but not including any attachments to the application;

- 1 (3) any reference letter submitted by the officer;
- 2 (4) any letter of recommendation for the officer;
- 3 (5) any employment contract with the officer;
- 4 (6) any periodic evaluation of the officer by a
5 supervisor;
- 6 (7) any document recording a promotion or demotion of
7 the officer;
- 8 (8) any request for leave by the officer;
- 9 (9) any request by the officer for transfers of shift
10 or duty assignments;
- 11 (10) any documents presented to the commission in
12 connection with a public hearing under Section 411.007(f);
- 13 (11) the officer's:
 - 14 (A) name;
 - 15 (B) age;
 - 16 (C) dates of employment;
 - 17 (D) positions held; and
 - 18 (E) gross salary; ~~and~~
- 19 (12) information about the location of the officer's
20 department duty assignments;
- 21 (13) a force report, incident report, extraordinary
22 occurrence report, emergency action report, Taser use report, or
23 any other report made by the officer concerning the use of force or
24 firearms by the officer or witnessed by the officer, and any log or
25 database tracking or compiling those reports by one or more
26 officers regardless of whether the officer making the report is
27 identified; and

1 (14) a fleet occurrence report or any other report
2 made by an officer concerning physical or property damage caused by
3 a department vehicle, and any log or database tracking or compiling
4 those incidents or reports.

5 SECTION 3. Subchapter B, Chapter 552, Government Code, is
6 amended by adding Section 552.030 to read as follows:

7 Sec. 552.030. RIGHT OF ACCESS TO VIDEO RECORDINGS OF
8 CRITICAL LAW ENFORCEMENT INCIDENTS. (a) In this section,
9 "critical incident":

10 (1) includes:

11 (A) an officer-involved shooting, including an
12 unintentional discharge of a firearm while in the course of duty or
13 in response to a call, regardless of whether:

14 (i) a person is hit by gunfire; or

15 (ii) an allegation of misconduct is made;

16 (B) use of force resulting in death or serious
17 bodily injury as defined by Section 1.07, Penal Code;

18 (C) the death of an arrestee or detainee while
19 the person is in the custodial care of a law enforcement agency; and

20 (D) any other police encounter in which a law
21 enforcement agency determines release of a video recording furthers
22 a law enforcement purpose; and

23 (2) does not include:

24 (A) an officer-involved shooting of an animal;

25 (B) an unintentional discharge of a firearm
26 during a pre-shift equipment check; or

27 (C) the discharge of a firearm during training or

1 qualifications on a firing range.

2 (b) Not later than the 60th day after the date a critical
3 incident occurs, a law enforcement agency shall make public any
4 video recording in the agency's possession involving the critical
5 incident.

6 (c) Except as otherwise provided by this subsection, a law
7 enforcement agency shall, not later than the 60th day after the date
8 a critical incident occurs, begin providing copies of a video
9 recording of the critical incident to persons who request a copy.
10 If the law enforcement agency determines the video recording cannot
11 be released as required by this subsection, the agency shall, not
12 later than the 45th day after the date the critical incident occurs,
13 begin notifying persons who request a copy of the video recording of
14 the reasons for the agency's decision and providing an explanation
15 as to when the agency will make copies of the video recording
16 available to requestors.

17 (d) Section 552.108 does not apply to a video recording of a
18 critical incident in a law enforcement agency's possession.

19 (e) The video recordings to which Subsections (b) and (c)
20 apply include body worn camera video recordings, digital in-car
21 video recordings, other video recordings captured by a law
22 enforcement agency, and video recordings captured by a third party
23 that are in a law enforcement agency's possession.

24 (f) A law enforcement agency may withhold a video recording
25 of a critical incident if the agency is prohibited from releasing
26 the recording by law or a court order. The agency may redact or edit
27 the video recording to protect juveniles and victims of certain

1 crimes or to protect the privacy interests of other individuals who
2 appear in the recording. The agency may not redact or edit a video
3 recording in a manner that compromises the depiction of what
4 occurred during the critical incident, including the officers
5 involved in the incident.

6 (g) A law enforcement agency may delay the release of a
7 video recording of a critical incident to protect:

8 (1) the safety of the individuals involved in the
9 critical incident, including officers, witnesses, bystanders, or
10 other third parties;

11 (2) the integrity of an active criminal or
12 administrative investigation or a criminal prosecution;

13 (3) confidential sources or investigative techniques;

14 or

15 (4) the constitutional rights of an accused.

16 (h) If a law enforcement agency determines that Subsection
17 (g) applies to a video recording of a critical incident, the agency
18 shall:

19 (1) not later than the 45th day after the date the
20 critical incident occurs, begin notifying persons who request a
21 copy of the recording of the specific, factual reasons for the
22 delay; and

23 (2) update persons who request a copy of the recording
24 every 15 days regarding the continuing justification for the delay
25 until the copies are released.

26 (i) Not later than 48 hours before the time a law
27 enforcement agency releases a video recording of a critical

1 incident, the agency shall make a reasonable attempt to notify and
2 consult with:

3 (1) the officers depicted in the recording or
4 significantly involved in the use of force;

5 (2) the individual upon whom force was used or the
6 individual's:

7 (A) next of kin if the individual is deceased;

8 (B) parent or legal guardian if the individual is
9 a juvenile; or

10 (C) legal counsel if the individual is
11 represented by legal counsel;

12 (3) the district attorney's office, county attorney's
13 office, or city attorney's office that has jurisdiction over the
14 critical incident depicted in the video; and

15 (4) any other individual or entity connected to the
16 critical incident the law enforcement agency deems appropriate.

17 SECTION 4. The changes in law made by this Act apply to
18 information produced or maintained before, on, or after the
19 effective date of this Act.

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