

By: West

S.B. No. 2093

A BILL TO BE ENTITLED

AN ACT

relating to preventing racial profiling and to video and audio equipment and recordings of certain law enforcement motor vehicle stops; creating an offense.

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

SECTION 1. Article 2.131, Code of Criminal Procedure, is amended to read as follows:

Art. 2.131. RACIAL PROFILING PROHIBITED. A peace officer may not engage in an act of racial profiling, as defined by the written policy required by Article 2.132(b) and adopted by the law enforcement agency employing the officer.

SECTION 2. Article 2.132, Code of Criminal Procedure, is amended by amending Subsection (d) and adding Subsection (d-1) to read as follows:

(d) On adoption of a policy under Subsection (b), a law enforcement agency shall examine the feasibility of installing video camera and transmitter-activated equipment in each agency law enforcement motor vehicle regularly used to make motor vehicle stops and transmitter-activated equipment in each agency law enforcement motorcycle regularly used to make motor vehicle stops. The agency also shall examine the feasibility of equipping each peace officer who regularly detains or stops motor vehicles with a body worn camera, as that term is defined by Section 1701.651, Occupations Code. If a law enforcement agency installs video or

1 audio equipment or equips peace officers with body worn cameras as  
2 provided by this subsection, the policy adopted by the agency under  
3 Subsection (b) must include:

4 (1) guidelines for when a peace officer should  
5 activate the camera or other equipment or discontinue a recording  
6 currently in progress;

7 (2) provisions relating to data retention, including a  
8 provision requiring the retention of [standards for reviewing]  
9 video and audio recordings for a minimum period of 90 days;

10 (3) provisions relating to storage of video and audio  
11 recordings, creation of backup copies of the recordings, and  
12 maintenance of data security;

13 (4) guidelines for public access, through open records  
14 requests, to recordings that are public information;

15 (5) procedures for supervisory or internal review; and

16 (6) the handling and documenting of equipment and  
17 malfunctions of equipment [documentation].

18 (d-1) A policy adopted under this article must be consistent  
19 with the Federal Rules of Evidence and Texas Rules of Evidence.

20 SECTION 3. Chapter 2, Code of Criminal Procedure, is  
21 amended by adding Articles 2.1325, 2.13851, 2.13852, 2.13853,  
22 2.13854, and 2.13855 to read as follows:

23 Art. 2.1325. RECORDING INTERACTIONS WITH THE PUBLIC. (a)  
24 In this article, "motor vehicle stop" has the meaning assigned by  
25 Article 2.132(a).

26 (b) A peace officer who uses a law enforcement motor vehicle  
27 or motorcycle equipped with video or audio equipment described by

1 Article 2.132(d) shall act in a manner that is consistent with the  
2 policy of the law enforcement agency that employs the officer with  
3 respect to when and under what circumstances the equipment must be  
4 activated.

5 (c) A peace officer who does not activate video or audio  
6 equipment in response to a call for assistance or on making a motor  
7 vehicle stop must include in the officer's incident report or  
8 otherwise note in the case file or record the reason for not  
9 activating the equipment.

10 (d) Any justification for failing to activate the equipment  
11 because it is unsafe, unrealistic, or impracticable is based on  
12 whether a reasonable officer under the same or similar  
13 circumstances would have made the same decision.

14 Art. 2.13851. RECORDINGS DOCUMENTING CERTAIN CONDUCT OF LAW  
15 ENFORCEMENT OFFICER. (a) Except as provided by Subsection (b), a  
16 video or audio recording under Article 2.1325 documenting an  
17 incident that involves the use of deadly force by a peace officer or  
18 that is otherwise related to an administrative or criminal  
19 investigation of an officer may not be deleted, destroyed, or  
20 released to the public until all criminal matters have been finally  
21 adjudicated and all related administrative investigations have  
22 concluded.

23 (b) A law enforcement agency may release to the public a  
24 recording described by Subsection (a) if the law enforcement agency  
25 determines that the release furthers a law enforcement purpose.

26 (c) This article does not affect the authority of a law  
27 enforcement agency to withhold under Section 552.108, Government

1 Code, information related to a closed criminal investigation that  
2 did not result in a conviction or a grant of deferred adjudication  
3 community supervision.

4 Art. 2.13852. RELEASE OF VIDEO OR AUDIO RECORDING. (a) A  
5 member of the public is required to provide the following  
6 information when submitting a written request to a law enforcement  
7 agency for a video or audio recording under Article 2.1325:

8 (1) the date and approximate time of the recording;

9 (2) the specific location where the recording  
10 occurred; and

11 (3) the name of one or more persons known to be a  
12 subject of the recording.

13 (b) A failure to provide all of the information required by  
14 Subsection (a) to be part of a request for a recording does not  
15 preclude the requestor from making a future request for the same  
16 recording.

17 (c) Except as provided by Subsection (d), a recording  
18 described by Subsection (a) that is held by a law enforcement agency  
19 is not subject to the requirements of Section 552.021, Government  
20 Code.

21 (d) A recording that is or could be used as evidence in a  
22 criminal prosecution is subject to the requirements of Section  
23 552.021, Government Code.

24 (e) A law enforcement agency may:

25 (1) seek to withhold a recording subject to Subsection  
26 (d) in accordance with procedures provided by Section 552.301,  
27 Government Code;

1           (2) assert any exceptions to disclosure in Chapter  
2 552, Government Code, or other law; or

3           (3) release a recording requested in accordance with  
4 Subsection (a) after the agency redacts any information made  
5 confidential under Chapter 552, Government Code, or other law.

6           (f) The attorney general shall set a proposed fee to be  
7 charged to members of the public who seek to obtain a copy of a  
8 recording under this article. The fee amount must be sufficient to  
9 cover the cost of reviewing and making the recording. A law  
10 enforcement agency may provide a copy without charge or at a reduced  
11 charge if the agency determines that waiver or reduction of the  
12 charge is in the public interest.

13           (g) A recording is confidential and excepted from the  
14 requirements of Chapter 552, Government Code, if the recording:

15                 (1) was not required to be made under law or under a  
16 policy adopted by the appropriate law enforcement agency; and

17                 (2) does not relate to a law enforcement purpose.

18           Art. 2.13853. VIDEO AND AUDIO RECORDINGS; REQUEST FOR  
19 ATTORNEY GENERAL DECISION. (a) Notwithstanding Section  
20 552.301(b), Government Code, a governmental body's request for a  
21 decision from the attorney general about whether a requested  
22 recording under Article 2.1325 falls within an exception to public  
23 disclosure is considered timely if made not later than the 20th  
24 business day after the date of receipt of the written request.

25           (b) Notwithstanding Section 552.301(d), Government Code, a  
26 governmental body's response to a requestor regarding a requested  
27 recording is considered timely if made not later than the 20th

business day after the date of receipt of the written request.

(c) Notwithstanding Section 552.301(e), Government Code, a governmental body's submission to the attorney general of the information required by that subsection regarding a requested recording is considered timely if made not later than the 25th business day after the date of receipt of the written request.

(d) Notwithstanding Section 552.301(e-1), Government Code, a governmental body's submission to a requestor of the information required by that subsection regarding a requested recording is considered timely if made not later than the 25th business day after the date of receipt of the written request.

Art. 2.13854. PRODUCTION OF VIDEO OR AUDIO RECORDING IN RESPONSE TO VOLUMINOUS PUBLIC INFORMATION REQUESTS. (a) Notwithstanding Section 552.221(d), Government Code, an officer for public information who is employed by a governmental body and who in accordance with Article 2.13853 receives a voluminous request for recordings under Article 2.1325 is considered to have promptly produced the information for purposes of Section 552.221, Government Code, if the officer takes the actions required under that section before the 21st business day after the date of receipt of the written request.

(b) For purposes of this article, "voluminous request" includes:

(1) a request for recordings from more than five separate incidents;

(2) more than five separate requests for recordings from the same person in a 24-hour period, regardless of the number

1 of incidents included in each request; or

2 (3) a request or multiple requests from the same  
3 person in a 24-hour period for recordings that, taken together,  
4 constitute more than five total hours of video or audio recordings.

5 Art. 2.13855. OFFENSE. (a) A peace officer or other  
6 employee of a law enforcement agency commits an offense if the  
7 officer or employee releases without permission of the applicable  
8 law enforcement agency a recording.

9 (b) An offense under this article is a Class A misdemeanor.

10 SECTION 4. (a) A law enforcement agency operating video or  
11 audio equipment on the effective date of this Act may submit any  
12 existing policy of the agency regarding the use of the equipment to  
13 the Texas Commission on Law Enforcement to determine whether the  
14 policy complies with Article 2.132(d), Code of Criminal Procedure,  
15 as amended by this Act.

16 (b) Notwithstanding Article 2.132(d), Code of Criminal  
17 Procedure, as amended by this Act, a law enforcement agency  
18 operating video or audio equipment on the effective date of this Act  
19 is not required to adopt or implement a policy that complies with  
20 that article before September 1, 2024.

21 (c) Articles 2.13851, 2.13852, 2.13853, 2.13854, and  
22 2.13855, Code of Criminal Procedure, as added by this Act, apply to  
23 a release of a recording on or after the effective date of this Act,  
24 regardless of whether the incident that is the subject of the  
25 recording occurred before, on, or after the effective date of this  
26 Act.

27 SECTION 5. This Act takes effect September 1, 2023.