

By: Johnson

H.B. No. 1035

A BILL TO BE ENTITLED

AN ACT

relating to criminal offenses involving the filming, recording,
photographing, documenting, or observing of a peace officer.

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

SECTION 1. Section 38.15(c), Penal Code, is amended to read
as follows:

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

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

(2) consisted only of filming, recording,
photographing, documenting, or observing a peace officer and if any
lawful orders by a peace officer to change proximity or position
were obeyed.

SECTION 2. Section 542.501, Transportation Code, is amended
to read as follows:

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

(1) a peace [~~police~~] officer; or

(2) a school crossing guard who:

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

1 (B) has been trained under Section 600.004 and is
2 directing traffic in a school crossing zone.

3 (b) Subsection (a)(1) does not apply to an order or
4 direction to cease filming, recording, photographing, documenting,
5 or observing a peace officer while the officer is engaged in the
6 performance of official duties. An officer may give an order or
7 direction to change a person's proximity or position.

8 SECTION 3. Section 37.09, Penal Code, is amended to read as
9 follows:

10 Sec. 37.09. TAMPERING WITH OR FABRICATING PHYSICAL
11 EVIDENCE. (a) A person commits an offense if, knowing that an
12 investigation or official proceeding is pending or in progress, he:

13 (1) alters, destroys, or conceals any record,
14 document, or thing with intent to impair its verity, legibility, or
15 availability as evidence in the investigation or official
16 proceeding; or

17 (2) makes, presents, or uses any record, document, or
18 thing with knowledge of its falsity and with intent to affect the
19 course or outcome of the investigation or official proceeding.

20 (b) This section shall not apply if the record, document, or
21 thing concealed is privileged or is the work product of the parties
22 to the investigation or official proceeding.

23 (c) An offense under Subsection (a), ~~or~~ Subsection
24 (d)(1), or Subsection (d)(3) is a felony of the third degree, unless
25 the thing altered, destroyed, or concealed is a human corpse, in
26 which case the offense is a felony of the second degree. An offense
27 under Subsection (d)(2) is a Class A misdemeanor.

1 (c-1) It is a defense to prosecution under Subsection (a),
2 ~~or~~ (d)(1), or (d)(3) that the record, document, or thing was
3 visual material prohibited under Section 43.261 that was destroyed
4 as described by Subsection (f)(3)(B) of that section.

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

6 (1) knowing that an offense has been committed,
7 alters, destroys, or conceals any record, document, or thing with
8 intent to impair its verity, legibility, or availability as
9 evidence in any subsequent investigation of or official proceeding
10 related to the offense; ~~or~~

11 (2) observes a human corpse under circumstances in
12 which a reasonable person would believe that an offense had been
13 committed, knows or reasonably should know that a law enforcement
14 agency is not aware of the existence of or location of the corpse,
15 and fails to report the existence of and location of the corpse to a
16 law enforcement agency~~[-]~~; or

17 (3) is a law enforcement officer or employee of a law
18 enforcement agency and, after taking possession or custody of
19 another person's audio, video or photographic recording of police
20 operations, alters, destroys, or conceals that recording without
21 the written consent of the owner.

22 (e) In this section, "human corpse" has the meaning assigned
23 by Section 42.08.

24 SECTION 4. (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 5. This Act takes effect September 1, 2015.