



1 capturing audio, moving images, or still images, or by way of  
2 written notes or observations.

3       **§ -2 Right to record law enforcement activities.** A  
4 person neither under arrest nor in the custody of a law  
5 enforcement officer shall have the right to record law  
6 enforcement activity and to maintain custody and control of that  
7 recording and of any property or instruments used by that person  
8 to record law enforcement activities; provided that a person  
9 under arrest or in custody of a law enforcement officer does  
10 not, by that status alone, forfeit the right to have any  
11 recordings taken prior to the arrest or prior to being taken  
12 into custody or the right to have any property and equipment  
13 used for the recording to be maintained and returned to that  
14 person. Nothing in this chapter shall be construed to permit a  
15 person to engage in actions that physically interfere with law  
16 enforcement activity or otherwise constitute a crime under  
17 chapter 710.

18       **§ -3 Private right of action.** (a) A claim of unlawful  
19 interference with recording a law enforcement activity shall be  
20 established under this section when a person demonstrates that  
21 the person exercised or attempted to exercise the right to



1 record law enforcement activities pursuant to section -2 and  
2 a law enforcement officer acted to interfere with that person's  
3 recording of a law enforcement activity, including by:

4 (1) Intentionally preventing or attempting to prevent that  
5 person from recording law enforcement activity;

6 (2) Threatening that person for recording law enforcement  
7 activity;

8 (3) Commanding that the person cease recording law  
9 enforcement activity when the person was otherwise  
10 authorized by law to do so;

11 (4) Stopping, seizing, searching, ticketing, or arresting  
12 that person because that person recorded law  
13 enforcement activity;

14 (5) Unlawfully seizing property or instruments used by  
15 that person to record law enforcement activity;

16 (6) Unlawfully destroying or seizing a recorded image or  
17 recorded images of law enforcement activity; or

18 (7) Copying a recording of law enforcement activity  
19 without the consent of the person who recorded it or  
20 approval from a court of competent jurisdiction.



1 (b) It shall be an affirmative defense to a civil action  
2 under this section that, at the time of the conduct by a law  
3 enforcement officer, the law enforcement officer had probable  
4 cause to arrest the person recording the law enforcement  
5 activity for a crime under chapter 710.

6 (c) A person subject to unlawful interference with  
7 recording law enforcement activities under this section may  
8 bring an action for any violation of this section in any court  
9 of competent jurisdiction for damages, including:

- 10 (1) Punitive damages;
- 11 (2) Declaratory and injunctive relief; and
- 12 (3) Other remedies as the court may deem appropriate.

13 (d) In any action or proceeding brought pursuant to this  
14 section, the court may award a prevailing plaintiff reasonable  
15 attorney's and expert witness fees.

16 (e) Any action or proceeding brought pursuant to this  
17 section shall be commenced no later than three years after the  
18 date on which the violation of this section was committed.

19 **§ -4 Preservation of rights.** The rights under this  
20 chapter shall be in addition to all other rights and remedies  
21 available pursuant to law."





# S.B. NO. 39

**Report Title:**

Law Enforcement Activities; Recordings; Private Right of Action

**Description:**

Establishes the right of persons to record law enforcement activities. Establishes a private right of action for violations of the right to record law enforcement activities.

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