

HB1290_L.010

HOUSE COMMITTEE OF REFERENCE AMENDMENT

Committee on Judiciary.HB15-1290 be amended as follows:

1 Amend proposed committee amendment (HB1290_L.008), page 1, strike
2 lines 25 through 28 and insert:

3 "(b) IF A PEACE OFFICER UNLAWFULLY DESTROYS OR DAMAGES A
4 RECORDING OR RECORDING DEVICE OF A PERSON, THE AGGRIEVED
5 PROPERTY OWNER MAY SUBMIT AN AFFIDAVIT TO THE PEACE OFFICER'S
6 EMPLOYING LAW ENFORCEMENT AGENCY SETTING FORTH THE FACTS OF
7 THE INCIDENT, THE DAMAGE DONE TO THE OWNER'S PROPERTY, AND A
8 VERIFIABLE ESTIMATE OF THE REPLACEMENT COST FOR ANY DAMAGED OR
9 DESTROYED DEVICE. IF A RECORDING WAS DAMAGED OR DESTROYED, THE
10 OWNER MAY CLAIM FIVE HUNDRED DOLLARS AS THE VALUE OF THE
11 RECORDING ITSELF. UPON RECEIPT OF THIS AFFIDAVIT, THE LAW
12 ENFORCEMENT AGENCY SHALL HAVE THIRTY DAYS TO EITHER PAY THE
13 AGGRIEVED OWNER THE AMOUNT REQUESTED IN THE AFFIDAVIT OR ISSUE
14 A DENIAL OF THE REQUEST IN WRITING.

15 (c) IF A DENIAL OF REIMBURSEMENT IS ISSUED BY THE LAW
16 ENFORCEMENT AGENCY PURSUANT TO PARAGRAPH (b) OF THIS
17 SUBSECTION (1), AND THE AGGRIEVED PROPERTY OWNER DISAGREES WITH
18 THE DENIAL, THE PROPERTY OWNER MAY BRING A CIVIL ACTION AGAINST
19 THE PEACE OFFICER'S EMPLOYING LAW ENFORCEMENT AGENCY FOR
20 ACTUAL DAMAGES, INCLUDING THE REPLACEMENT VALUE OF THE DEVICE,
21 THE AMOUNT OF FIVE HUNDRED DOLLARS FOR ANY DAMAGED OR
22 DESTROYED RECORDING, AND ANY COSTS AND FEES ASSOCIATED WITH THE
23 FILING OF THE CIVIL ACTION. THE COURT MAY ORDER PUNITIVE DAMAGES
24 UP TO FIFTEEN THOUSAND DOLLARS AND ATTORNEYS' FEES TO THE
25 PROPERTY OWNER UPON A FINDING THAT THE DENIAL BY THE LAW
26 ENFORCEMENT AGENCY TO REIMBURSE THE PROPERTY OWNER PURSUANT
27 TO PARAGRAPH (b) OF THIS SECTION WAS MADE IN BAD FAITH. IF THE
28 COURT FINDS THAT AN ACTION BROUGHT BY A PROPERTY OWNER IS
29 FRIVOLOUS AND WITHOUT MERIT, THE COURT MAY AWARD THE LAW
30 ENFORCEMENT AGENCY ITS REASONABLE COSTS AND ATTORNEYS' FEES."

31 Page 2, line 8, strike "WARRANT," and substitute "WARRANT OR
32 SUBPOENA,".

33 Page 2, line 25, strike "DEVICE" and substitute "DEVICE, THE
34 RECORDING,".

35 Page 2, strike lines 37 through 41 and substitute:

1 "(d) IN CIRCUMSTANCES WHEN THE IMMEDIATE ELECTRONIC
2 TRANSFER IS NOT PRACTICABLE OR IF THE PERSON DOES NOT CONSENT TO
3 THE ELECTRONIC TRANSFER OF THE EVIDENTIARY INFORMATION OR TO THE
4 SEIZURE OF THE DEVICE, THE PEACE OFFICER MAY ARRANGE FOR THE
5 TRANSFER OR DELIVERY OF THE INFORMATION OR DEVICE TO THE PEACE
6 OFFICER OR TO THE LAW ENFORCEMENT AGENCY BY ANY ALTERNATIVE
7 MEANS CONSISTENT WITH ANY POLICIES AND PROCEDURES OF THE LAW
8 ENFORCEMENT AGENCY."

9 Page 3, strike lines 1 through 6.

10 Page 3, after line 17 insert:

11 "(4) NOTHING IN THIS SECTION SHALL BE CONSTRUED TO ALLOW
12 A PERSON TO INTERFERE WITH A PEACE OFFICER IN THE LAWFUL
13 PERFORMANCE OF HIS OR HER DUTIES.

14 **SECTION 3. Effective date - applicability.** This act takes effect
15 one year after passage and applies to actions committed on or after said
16 date."

17 Renumber succeeding section accordingly.

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