

By: West

S.B. No. 1120

A BILL TO BE ENTITLED

AN ACT

relating to reports on racial profiling in connection with motor vehicle stops; providing a penalty.

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

SECTION 1. Article 2.132, Code of Criminal Procedure, is amended by amending Subsections (a), (b), (d), and (e) and adding Subsection (g) to read as follows:

(a) In this article:

(1) "Law enforcement agency" means an agency of the state, or of a county, municipality, or other political subdivision of the state, that employs peace officers who make motor vehicle ~~traffic~~ stops in the routine performance of the officers' official duties.

(2) "Motor vehicle stop" means an occasion in which a peace officer stops a motor vehicle for an alleged violation of a law or ordinance.

(3) "Race or ethnicity" means of a particular descent, including Caucasian, African, Hispanic, Asian, ~~or~~ Native American, or Middle Eastern descent.

(b) Each law enforcement agency in this state shall adopt a detailed written policy on racial profiling. The policy must:

(1) clearly define acts constituting racial profiling;

(2) strictly prohibit peace officers employed by the

1 agency from engaging in racial profiling;

2 (3) implement a process by which an individual may  
3 file a complaint with the agency if the individual believes that a  
4 peace officer employed by the agency has engaged in racial  
5 profiling with respect to the individual;

6 (4) provide public education relating to the agency's  
7 complaint process;

8 (5) require appropriate corrective action to be taken  
9 against a peace officer employed by the agency who, after an  
10 investigation, is shown to have engaged in racial profiling in  
11 violation of the agency's policy adopted under this article;

12 (6) require collection of information relating to  
13 motor vehicle ~~[traffic]~~ stops in which a citation is issued and to  
14 arrests made as a result of ~~[resulting from]~~ those ~~[traffic]~~ stops,  
15 including information relating to:

16 (A) the race or ethnicity of the individual  
17 detained; and

18 (B) whether a search was conducted and, if so,  
19 whether the individual ~~[person]~~ detained consented to the search;  
20 and

21 (7) require the chief administrator of the agency,  
22 regardless of whether the administrator is elected, employed, or  
23 appointed, to submit to the governing body of each county or  
24 municipality served by the agency an annual report of the  
25 information collected under Subdivision (6) if the agency is an  
26 agency of a county, municipality, or other political subdivision of  
27 the state.

1 (d) On adoption of a policy under Subsection (b), a law  
 2 enforcement agency shall examine the feasibility of installing  
 3 video camera and transmitter-activated equipment in each agency law  
 4 enforcement motor vehicle regularly used to make motor vehicle  
 5 ~~[traffic]~~ stops and transmitter-activated equipment in each agency  
 6 law enforcement motorcycle regularly used to make motor vehicle  
 7 ~~[traffic]~~ stops. If a law enforcement agency installs video or  
 8 audio equipment as provided by this subsection, the policy adopted  
 9 by the agency under Subsection (b) must include standards for  
 10 reviewing video and audio documentation.

11 (e) A report required under Subsection (b)(7) may not  
 12 include identifying information about a peace officer who makes a  
 13 motor vehicle ~~[traffic]~~ stop or about an individual who is stopped  
 14 or arrested by a peace officer. This subsection does not affect the  
 15 collection of information as required by a policy under Subsection  
 16 (b)(6).

17 (g) On notice that a law enforcement agency intentionally  
 18 failed to submit a report required under Subsection (b)(7), the  
 19 Commission on Law Enforcement Officer Standards and Education shall  
 20 begin disciplinary procedures against the chief administrator of  
 21 the agency.

22 SECTION 2. Article 2.133, Code of Criminal Procedure, is  
 23 amended to read as follows:

24 Art. 2.133. REPORTS REQUIRED FOR MOTOR VEHICLE ~~[TRAFFIC AND~~  
 25 ~~PEDESTRIAN]~~ STOPS. (a) In this article, "race" ~~[+~~

26 ~~(1) "Race]~~ or ethnicity" has the meaning assigned by  
 27 Article 2.132(a).

1           ~~[(2) "Pedestrian stop" means an interaction between a~~  
2 ~~peace officer and an individual who is being detained for the~~  
3 ~~purpose of a criminal investigation in which the individual is not~~  
4 ~~under arrest.]~~

5           (b) A peace officer who stops a motor vehicle for an alleged  
6 violation of a law or ordinance ~~[regulating traffic or who stops a~~  
7 ~~pedestrian for any suspected offense]~~ shall report to the law  
8 enforcement agency that employs the officer information relating to  
9 the stop, including:

10           (1) a physical description of any ~~[each]~~ person  
11 operating the motor vehicle who is detained as a result of the stop,  
12 including:

13                   (A) the person's gender; and

14                   (B) the person's race or ethnicity, as stated by  
15 the person or, if the person does not state the person's race or  
16 ethnicity, as determined by the officer to the best of the officer's  
17 ability;

18           (2) the initial reason for the stop ~~[traffic law or~~  
19 ~~ordinance alleged to have been violated or the suspected offense]~~;

20           (3) whether the officer conducted a search as a result  
21 of the stop and, if so, whether the person detained consented to the  
22 search;

23           (4) whether any contraband or other evidence was  
24 discovered in the course of the search and a description ~~[the type]~~  
25 of the contraband or evidence ~~[discovered]~~;

26           (5) the reason for the search, including whether:

27                   (A) any contraband or other evidence was in plain

1 view;

2 (B) any probable cause or reasonable suspicion  
3 existed to perform the search; or

4 (C) the search was performed as a result of the  
5 towing of the motor vehicle or the arrest of any person in the motor  
6 vehicle ~~[existed and the facts supporting the existence of that~~  
7 ~~probable cause]~~;

8 (6) whether the officer made an arrest as a result of  
9 the stop or the search, including a statement of whether the arrest  
10 was based on a violation of the Penal Code, a violation of a traffic  
11 law or ordinance, or an outstanding warrant and a statement of the  
12 offense charged;

13 (7) the street address or approximate location of the  
14 stop; and

15 (8) whether the officer issued a written warning or a  
16 citation as a result of the stop~~[, including a description of the~~  
17 ~~warning or a statement of the violation charged]~~.

18 SECTION 3. Article 2.134, Code of Criminal Procedure, is  
19 amended by amending Subsections (a) through (e) and adding  
20 Subsection (g) to read as follows:

21 (a) In this article, "motor vehicle ~~[pedestrian]~~ stop" has  
22 the meaning assigned by Article 2.132 ~~[means an interaction between~~  
23 ~~a peace officer and an individual who is being detained for the~~  
24 ~~purpose of a criminal investigation in which the individual is not~~  
25 ~~under arrest]~~.

26 (b) A law enforcement agency shall compile and analyze the  
27 information contained in each report received by the agency under

Article 2.133. Not later than March 1 of each year, each ~~[local]~~ law enforcement agency shall submit a report containing the incident-based data ~~[information]~~ compiled during the previous calendar year to the Commission on Law Enforcement Officer Standards and Education and, if the law enforcement agency is a local law enforcement agency, to the governing body of each county or municipality served by the agency ~~[in a manner approved by the agency]~~.

(c) A report required under Subsection (b) must be submitted by the chief administrator of the law enforcement agency, regardless of whether the administrator is elected, employed, or appointed, and must include:

(1) a comparative analysis of the information compiled under Article 2.133 to:

(A) determine the prevalence of racial profiling by peace officers employed by the agency; and

(B) examine the disposition of motor vehicle ~~[traffic and pedestrian]~~ stops made by officers employed by the agency, including searches resulting from the stops; and

(2) information relating to each complaint filed with the agency alleging that a peace officer employed by the agency has engaged in racial profiling.

(d) A report required under Subsection (b) may not include identifying information about a peace officer who makes a motor vehicle ~~[traffic or pedestrian]~~ stop or about an individual who is stopped or arrested by a peace officer. This subsection does not affect the reporting of information required under Article

2.133(b)(1).

(e) The Commission on Law Enforcement Officer Standards and Education, in accordance with Section 1701.162, Occupations Code, shall develop guidelines for compiling and reporting information as required by this article.

(g) On notice that a law enforcement agency intentionally failed to submit a report required under Subsection (b), the Commission on Law Enforcement Officer Standards and Education shall begin disciplinary procedures against the chief administrator of the agency.

SECTION 4. Article 2.135, Code of Criminal Procedure, is amended to read as follows:

Art. 2.135. PARTIAL EXEMPTION FOR AGENCIES USING VIDEO AND AUDIO EQUIPMENT. (a) A peace officer is exempt from the reporting requirement under Article 2.133 and the chief administrator of a law enforcement agency, regardless of whether the administrator is elected, employed, or appointed, is exempt from the compilation, analysis, and reporting requirements under Article 2.134 if:

(1) during the calendar year preceding the date that a report under Article 2.134 is required to be submitted:

(A) each law enforcement motor vehicle regularly used by an officer employed by the agency to make motor vehicle ~~[traffic and pedestrian]~~ stops is equipped with video camera and transmitter-activated equipment and each law enforcement motorcycle regularly used to make motor vehicle ~~[traffic and pedestrian]~~ stops is equipped with transmitter-activated equipment; and

1                   (B) each motor vehicle [~~traffic and pedestrian~~]  
2 stop made by an officer employed by the agency that is capable of  
3 being recorded by video and audio or audio equipment, as  
4 appropriate, is recorded by using the equipment; or

5                   (2) the governing body of the county or municipality  
6 served by the law enforcement agency, in conjunction with the law  
7 enforcement agency, certifies to the Department of Public Safety,  
8 not later than the date specified by rule by the department, that  
9 the law enforcement agency needs funds or video and audio equipment  
10 for the purpose of installing video and audio equipment as  
11 described by Subsection (a)(1)(A) and the agency does not receive  
12 from the state funds or video and audio equipment sufficient, as  
13 determined by the department, for the agency to accomplish that  
14 purpose.

15                  (b) Except as otherwise provided by this subsection, a law  
16 enforcement agency that is exempt from the requirements under  
17 Article 2.134 shall retain the video and audio or audio  
18 documentation of each motor vehicle [~~traffic and pedestrian~~] stop  
19 for at least 90 days after the date of the stop. If a complaint is  
20 filed with the law enforcement agency alleging that a peace officer  
21 employed by the agency has engaged in racial profiling with respect  
22 to a motor vehicle [~~traffic or pedestrian~~] stop, the agency shall  
23 retain the video and audio or audio record of the stop until final  
24 disposition of the complaint.

25                  (c) This article does not affect the collection or reporting  
26 requirements under Article 2.132.

27                  (d) In this article, "motor vehicle stop" has the meaning



1 assigned by Article 2.132.

2 SECTION 5. Chapter 2, Code of Criminal Procedure, is  
3 amended by adding Article 2.1385 to read as follows:

4 Art. 2.1385. CIVIL PENALTY. (a) If the chief administrator  
5 of a local law enforcement agency intentionally fails to submit the  
6 incident-based data as required by Article 2.134, the agency is  
7 liable to the state for a civil penalty in the amount of \$1,000 for  
8 each violation. The attorney general may sue to collect a civil  
9 penalty under this subsection.

10 (b) From money appropriated to the agency for the  
11 administration of the agency, the executive director of a state law  
12 enforcement agency that intentionally fails to submit the  
13 incident-based data as required by Article 2.134 shall remit to the  
14 comptroller the amount of \$1,000 for each violation.

15 (c) Money collected under this article shall be deposited in  
16 the state treasury to the credit of the general revenue fund.

17 SECTION 6. Subchapter A, Chapter 102, Code of Criminal  
18 Procedure, is amended by adding Article 102.022 to read as follows:

19 Art. 102.022. COSTS ON CONVICTION TO FUND STATEWIDE  
20 REPOSITORY FOR DATA RELATED TO CIVIL JUSTICE. (a) In this article,  
21 "moving violation" means an offense that:

22 (1) involves the operation of a motor vehicle; and  
23 (2) is classified as a moving violation by the  
24 Department of Public Safety under Section 708.052, Transportation  
25 Code.

26 (b) A defendant convicted of a moving violation in a justice  
27 court, county court, county court at law, or municipal court shall

1 pay a fee of 15 cents as a cost of court.

2 (c) In this article, a person is considered convicted if:

3 (1) a sentence is imposed on the person;

4 (2) the person receives community supervision,  
5 including deferred adjudication; or

6 (3) the court defers final disposition of the person's  
7 case.

8 (d) The clerks of the respective courts shall collect the  
9 costs described by this article. The clerk shall keep separate  
10 records of the funds collected as costs under this article and shall  
11 deposit the funds in the county or municipal treasury, as  
12 appropriate.

13 (e) The custodian of a county or municipal treasury shall:

14 (1) keep records of the amount of funds on deposit  
15 collected under this article; and

16 (2) send to the comptroller before the last day of the  
17 first month following each calendar quarter the funds collected  
18 under this article during the preceding quarter.

19 (f) A county or municipality may retain 10 percent of the  
20 funds collected under this article by an officer of the county or  
21 municipality as a collection fee if the custodian of the county or  
22 municipal treasury complies with Subsection (e).

23 (g) If no funds due as costs under this article are  
24 deposited in a county or municipal treasury in a calendar quarter,  
25 the custodian of the treasury shall file the report required for the  
26 quarter in the regular manner and must state that no funds were  
27 collected.

1        (h) The comptroller shall deposit the funds received under  
2 this article to the credit of the Civil Justice Data Repository fund  
3 in the general revenue fund, to be used only by the Commission on  
4 Law Enforcement Officer Standards and Education to implement duties  
5 under Section 1701.162, Occupations Code.

6        (i) Funds collected under this article are subject to audit  
7 by the comptroller.

8        SECTION 7. (a) Section 102.061, Government Code, as  
9 reenacted and amended by Chapter 921 (H.B. 3167), Acts of the 80th  
10 Legislature, Regular Session, 2007, is amended to conform to the  
11 amendments made to Section 102.061, Government Code, by Chapter  
12 1053 (H.B. 2151), Acts of the 80th Legislature, Regular Session,  
13 2007, and is further amended to read as follows:

14        Sec. 102.061. ADDITIONAL COURT COSTS ON CONVICTION IN  
15 STATUTORY COUNTY COURT: CODE OF CRIMINAL PROCEDURE. The clerk of a  
16 statutory county court shall collect fees and costs under the Code  
17 of Criminal Procedure on conviction of a defendant as follows:

18                (1) a jury fee (Art. 102.004, Code of Criminal  
19 Procedure) . . . \$20;

20                (2) a fee for services of the clerk of the court (Art.  
21 102.005, Code of Criminal Procedure) . . . \$40;

22                (3) a records management and preservation services fee  
23 (Art. 102.005, Code of Criminal Procedure) . . . \$25;

24                (4) a security fee on a misdemeanor offense (Art.  
25 102.017, Code of Criminal Procedure) . . . \$3;

26                (5) a juvenile delinquency prevention and graffiti  
27 eradication fee (Art. 102.0171, Code of Criminal Procedure) . . .

1 \$50 [~~\$5~~]; [~~and~~]

2 (6) a juvenile case manager fee (Art. 102.0174, Code  
3 of Criminal Procedure) . . . not to exceed \$5; and

4 (7) a civil justice fee (Art. 102.022, Code of  
5 Criminal Procedure) . . . \$0.15.

6 (b) Section 102.061, Government Code, as amended by Chapter  
7 1053, Acts of the 80th Legislature, Regular Session, 2007, is  
8 repealed. Section 102.061, Government Code, as reenacted and  
9 amended by Chapter 921, Acts of the 80th Legislature, Regular  
10 Session, 2007, to reorganize and renumber that section, continues  
11 in effect as further amended by this section.

12 SECTION 8. (a) Section 102.081, Government Code, as  
13 amended by Chapter 921 (H.B. 3167), Acts of the 80th Legislature,  
14 Regular Session, 2007, is amended to conform to the amendments made  
15 to Section 102.081, Government Code, by Chapter 1053 (H.B. 2151),  
16 Acts of the 80th Legislature, Regular Session, 2007, and is further  
17 amended to read as follows:

18 Sec. 102.081. ADDITIONAL COURT COSTS ON CONVICTION IN  
19 COUNTY COURT: CODE OF CRIMINAL PROCEDURE. The clerk of a county  
20 court shall collect fees and costs under the Code of Criminal  
21 Procedure on conviction of a defendant as follows:

22 (1) a jury fee (Art. 102.004, Code of Criminal  
23 Procedure) . . . \$20;

24 (2) a fee for clerk of the court services (Art.  
25 102.005, Code of Criminal Procedure) . . . \$40;

26 (3) a records management and preservation services fee  
27 (Art. 102.005, Code of Criminal Procedure) . . . \$25;

(4) a security fee on a misdemeanor offense (Art. 102.017, Code of Criminal Procedure) . . . \$3;

(5) a juvenile delinquency prevention and graffiti eradication fee (Art. 102.0171, Code of Criminal Procedure) . . . \$50 [~~\$5~~]; [~~and~~]

(6) a juvenile case manager fee (Art. 102.0174, Code of Criminal Procedure) . . . not to exceed \$5; and

(7) a civil justice fee (Art. 102.022, Code of Criminal Procedure) . . . \$0.15.

(b) Section 102.081, Government Code, as amended by Chapter 1053 (H.B. 2151), Acts of the 80th Legislature, Regular Session, 2007, is repealed. Section 102.081, Government Code, as amended by Chapter 921 (H.B. 3167), Acts of the 80th Legislature, Regular Session, 2007, to reorganize and renumber that section, continues in effect as further amended by this section.

SECTION 9. Section 102.101, Government Code, is amended to read as follows:

Sec. 102.101. ADDITIONAL COURT COSTS ON CONVICTION IN JUSTICE COURT: CODE OF CRIMINAL PROCEDURE. A clerk of a justice court shall collect fees and costs under the Code of Criminal Procedure on conviction of a defendant as follows:

(1) a jury fee (Art. 102.004, Code of Criminal Procedure) . . . \$3;

(2) a fee for withdrawing request for jury less than 24 hours before time of trial (Art. 102.004, Code of Criminal Procedure) . . . \$3;

(3) a jury fee for two or more defendants tried jointly

(Art. 102.004, Code of Criminal Procedure) . . . one jury fee of \$3;

(4) a security fee on a misdemeanor offense (Art. 102.017, Code of Criminal Procedure) . . . \$4;

(5) a fee for technology fund on a misdemeanor offense (Art. 102.0173, Code of Criminal Procedure) . . . \$4;

(6) a juvenile case manager fee (Art. 102.0174, Code of Criminal Procedure) . . . not to exceed \$5;

(7) a fee on conviction of certain offenses involving issuing or passing a subsequently dishonored check (Art. 102.0071, Code of Criminal Procedure) . . . not to exceed \$30; ~~and~~

(8) a court cost on conviction of a Class C misdemeanor in a county with a population of 3.3 million or more, if authorized by the county commissioners court (Art. 102.009, Code of Criminal Procedure) . . . not to exceed \$7; and

(9) a civil justice fee (Art. 102.022, Code of Criminal Procedure) . . . \$0.15.

SECTION 10. Section 102.121, Government Code, is amended to read as follows:

Sec. 102.121. ADDITIONAL COURT COSTS ON CONVICTION IN MUNICIPAL COURT: CODE OF CRIMINAL PROCEDURE. The clerk of a municipal court shall collect fees and costs on conviction of a defendant as follows:

(1) a jury fee (Art. 102.004, Code of Criminal Procedure) . . . \$3;

(2) a fee for withdrawing request for jury less than 24 hours before time of trial (Art. 102.004, Code of Criminal Procedure) . . . \$3;

1           (3) a jury fee for two or more defendants tried jointly  
2 (Art. 102.004, Code of Criminal Procedure) . . . one jury fee of \$3;

3           (4) a security fee on a misdemeanor offense (Art.  
4 102.017, Code of Criminal Procedure) . . . \$3;

5           (5) a fee for technology fund on a misdemeanor offense  
6 (Art. 102.0172, Code of Criminal Procedure) . . . not to exceed \$4;  
7 [~~and~~]

8           (6) a juvenile case manager fee (Art. 102.0174, Code  
9 of Criminal Procedure) . . . not to exceed \$5; and

10           (7) a civil justice fee (Art. 102.022, Code of  
11 Criminal Procedure) . . . \$0.15.

12           SECTION 11. Subchapter D, Chapter 1701, Occupations Code,  
13 is amended by adding Section 1701.162 to read as follows:

14           Sec. 1701.162. COLLECTION OF CERTAIN INCIDENT-BASED DATA  
15 SUBMITTED BY LAW ENFORCEMENT AGENCIES. The commission shall  
16 collect and maintain incident-based data submitted to the  
17 commission under Article 2.134, Code of Criminal Procedure,  
18 including incident-based data compiled by a law enforcement agency  
19 from reports received by the law enforcement agency under Article  
20 2.133 of that code. The commission in consultation with the  
21 Department of Public Safety, the Bill Blackwood Law Enforcement  
22 Management Institute of Texas, and the University of North Texas  
23 shall develop guidelines for submitting in a standard format the  
24 report containing incident-based data as required by Article 2.134,  
25 Code of Criminal Procedure.

26           SECTION 12. Section 1701.501(a), Occupations Code, is  
27 amended to read as follows:

1           (a) Except as provided by Subsection (d), the commission  
2 shall revoke or suspend a license, place on probation a person whose  
3 license has been suspended, or reprimand a license holder for a  
4 violation of:

5                 (1) this chapter;

6                 (2) the reporting requirements provided by Articles  
7 2.132 and 2.134, Code of Criminal Procedure; or

8                 (3) a commission rule.

9           SECTION 13. (a) The requirements of Articles 2.132, 2.133,  
10 and 2.134, Code of Criminal Procedure, as amended by this Act,  
11 relating to the compilation, analysis, and submission of  
12 incident-based data apply only to information based on a motor  
13 vehicle stop occurring on or after January 1, 2010.

14           (b) The imposition of a cost of court under Article 102.022,  
15 Code of Criminal Procedure, as added by this Act, applies only to an  
16 offense committed on or after the effective date of this Act. An  
17 offense committed before the effective date of this Act is covered  
18 by the law in effect when the offense was committed, and the former  
19 law is continued in effect for that purpose. For purposes of this  
20 section, an offense was committed before the effective date of this  
21 Act if any element of the offense occurred before that date.

22           SECTION 14. This Act takes effect September 1, 2009.