

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) to:

26 (A) the Commission on Law Enforcement Officer
27 Standards and Education; and

1 (B) the governing body of each county or
2 municipality served by the agency, if the agency is an agency of a
3 county, municipality, or other political subdivision of the state.

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

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

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

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

27 Art. 2.133. REPORTS REQUIRED FOR MOTOR VEHICLE ~~[TRAFFIC AND~~

1 ~~PEDESTRIAN~~] STOPS. (a) In this article, "race" ~~+~~

2 ~~[(1) "Race]~~ or ethnicity" has the meaning assigned by
3 Article 2.132(a).

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

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

13 (1) a physical description of any ~~each~~ person
14 operating the motor vehicle who is detained as a result of the stop,
15 including:

16 (A) the person's gender; and

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

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

23 (3) whether the officer conducted a search as a result
24 of the stop and, if so, whether the person detained consented to the
25 search;

26 (4) whether any contraband or other evidence was
27 discovered in the course of the search and a description ~~[the type]~~

of the contraband or evidence [~~discovered~~];

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

(A) any contraband or other evidence was in plain view;

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

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

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

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

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

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

(a) In this article:

(1) "Motor vehicle[~~, pedestrian~~] stop" has the meaning assigned by Article 2.132(a) [~~means an interaction between a peace officer and an individual who is being detained for the purpose of a~~

1 ~~criminal investigation in which the individual is not under~~
2 ~~arrest~~].

3 (2) "Race or ethnicity" has the meaning assigned by
4 Article 2.132(a).

5 (b) A law enforcement agency shall compile and analyze the
6 information contained in each report received by the agency under
7 Article 2.133. Not later than March 1 of each year, each ~~[local]~~
8 law enforcement agency shall submit a report containing the
9 incident-based data ~~[information]~~ compiled during the previous
10 calendar year to the Commission on Law Enforcement Officer
11 Standards and Education and, if the law enforcement agency is a
12 local law enforcement agency, to the governing body of each county
13 or municipality served by the agency ~~[in a manner approved by the~~
14 ~~agency]~~.

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

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

21 (A) evaluate and compare the number of motor
22 vehicle stops, within the applicable jurisdiction, of persons who
23 are recognized as racial or ethnic minorities and persons who are
24 not recognized as racial or ethnic minorities ~~[determine the~~
25 ~~prevalence of racial profiling by peace officers employed by the~~
26 ~~agency]~~; and

27 (B) examine the disposition of motor vehicle

1 ~~[traffic and pedestrian]~~ stops made by officers employed by the
2 agency, categorized according to the race or ethnicity of the
3 affected persons, as appropriate, including any searches resulting
4 from ~~[the]~~ stops within the applicable jurisdiction; and

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

8 (d) A report required under Subsection (b) may not include
9 identifying information about a peace officer who makes a motor
10 vehicle ~~[traffic or pedestrian]~~ stop or about an individual who is
11 stopped or arrested by a peace officer. This subsection does not
12 affect the reporting of information required under Article
13 2.133(b)(1).

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

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

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

25 Art. 2.135. PARTIAL EXEMPTION FOR AGENCIES USING VIDEO AND
26 AUDIO EQUIPMENT. (a) A peace officer is exempt from the reporting
27 requirement under Article 2.133 and the chief administrator of a

1 law enforcement agency, regardless of whether the administrator is
2 elected, employed, or appointed, is exempt from the compilation,
3 analysis, and reporting requirements under Article 2.134 if:

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

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

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

17 (2) the governing body of the county or municipality
18 served by the law enforcement agency, in conjunction with the law
19 enforcement agency, certifies to the Department of Public Safety,
20 not later than the date specified by rule by the department, that
21 the law enforcement agency needs funds or video and audio equipment
22 for the purpose of installing video and audio equipment as
23 described by Subsection (a)(1)(A) and the agency does not receive
24 from the state funds or video and audio equipment sufficient, as
25 determined by the department, for the agency to accomplish that
26 purpose.

27 (b) Except as otherwise provided by this subsection, a law

enforcement agency that is exempt from the requirements under Article 2.134 shall retain the video and audio or audio documentation of each motor vehicle [~~traffic and pedestrian~~] stop for at least 90 days after the date of the stop. If a complaint is filed with the law enforcement agency alleging that a peace officer employed by the agency has engaged in racial profiling with respect to a motor vehicle [~~traffic or pedestrian~~] stop, the agency shall retain the video and audio or audio record of the stop until final disposition of the complaint.

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

(d) In this article, "motor vehicle stop" has the meaning assigned by Article 2.132(a).

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

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

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

(c) Money collected under this article shall be deposited in

1 the state treasury to the credit of the general revenue fund.

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

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

7 (1) involves the operation of a motor vehicle; and

8 (2) is classified as a moving violation by the
9 Department of Public Safety under Section 708.052, Transportation
10 Code.

11 (b) A defendant convicted of a moving violation in a justice
12 court, county court, county court at law, or municipal court shall
13 pay a fee of 10 cents as a cost of court.

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

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

16 (2) the person receives community supervision,
17 including deferred adjudication; or

18 (3) the court defers final disposition of the person's
19 case.

20 (d) The clerks of the respective courts shall collect the
21 costs described by this article. The clerk shall keep separate
22 records of the funds collected as costs under this article and shall
23 deposit the funds in the county or municipal treasury, as
24 appropriate.

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

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

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

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

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

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

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

20 SECTION 7. (a) Section 102.061, Government Code, as
21 reenacted and amended by Chapter 921 (H.B. 3167), Acts of the 80th
22 Legislature, Regular Session, 2007, is amended to conform to the
23 amendments made to Section 102.061, Government Code, by Chapter
24 1053 (H.B. 2151), Acts of the 80th Legislature, Regular Session,
25 2007, and is further amended to read as follows:

26 Sec. 102.061. ADDITIONAL COURT COSTS ON CONVICTION IN
27 STATUTORY COUNTY COURT: CODE OF CRIMINAL PROCEDURE. The clerk of a

1 statutory county court shall collect fees and costs under the Code
2 of Criminal Procedure on conviction of a defendant as follows:

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

5 (2) a fee for services of the clerk of the court (Art.
6 102.005, Code of Criminal Procedure) . . . \$40;

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

9 (4) a security fee on a misdemeanor offense (Art.
10 102.017, Code of Criminal Procedure) . . . \$3;

11 (5) a juvenile delinquency prevention and graffiti
12 eradication fee (Art. 102.0171, Code of Criminal Procedure) . . .
13 \$50 [~~\$5~~]; [~~and~~]

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

16 (7) a civil justice fee (Art. 102.022, Code of
17 Criminal Procedure) . . . \$0.10.

18 (b) Section 102.061, Government Code, as amended by Chapter
19 1053 (H.B. 2151), Acts of the 80th Legislature, Regular Session,
20 2007, is repealed. Section 102.061, Government Code, as reenacted
21 and amended by Chapter 921 (H.B. 3167), Acts of the 80th
22 Legislature, Regular Session, 2007, to reorganize and renumber that
23 section, continues in effect as further amended by this section.

24 SECTION 8. (a) Section 102.081, Government Code, as
25 amended by Chapter 921 (H.B. 3167), Acts of the 80th Legislature,
26 Regular Session, 2007, is amended to conform to the amendments made
27 to Section 102.081, Government Code, by Chapter 1053 (H.B. 2151),

1 Acts of the 80th Legislature, Regular Session, 2007, and is further
2 amended to read as follows:

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

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

9 (2) a fee for clerk of the court services (Art.
10 102.005, Code of Criminal Procedure) . . . \$40;

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

13 (4) a security fee on a misdemeanor offense (Art.
14 102.017, Code of Criminal Procedure) . . . \$3;

15 (5) a juvenile delinquency prevention and graffiti
16 eradication fee (Art. 102.0171, Code of Criminal Procedure) . . .
17 \$50 [~~\$5~~]; [~~and~~]

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

20 (7) a civil justice fee (Art. 102.022, Code of
21 Criminal Procedure) . . . \$0.10.

22 (b) Section 102.081, Government Code, as amended by Chapter
23 1053 (H.B. 2151), Acts of the 80th Legislature, Regular Session,
24 2007, is repealed. Section 102.081, Government Code, as amended by
25 Chapter 921 (H.B. 3167), Acts of the 80th Legislature, Regular
26 Session, 2007, to reorganize and renumber that section, continues
27 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

1 Criminal Procedure) . . . \$0.10.

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

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

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

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

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

15 (4) a security fee on a misdemeanor offense (Art.
16 102.017, Code of Criminal Procedure) . . . \$3;

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

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

22 (7) a civil justice fee (Art. 102.022, Code of
23 Criminal Procedure) . . . \$0.10.

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

26 Sec. 1701.162. COLLECTION OF CERTAIN INCIDENT-BASED DATA
27 SUBMITTED BY LAW ENFORCEMENT AGENCIES. The commission shall

1 collect and maintain incident-based data submitted to the
2 commission under Article 2.134, Code of Criminal Procedure,
3 including incident-based data compiled by a law enforcement agency
4 from reports received by the law enforcement agency under Article
5 2.133 of that code. The commission in consultation with the
6 Department of Public Safety, the Bill Blackwood Law Enforcement
7 Management Institute of Texas, the W. W. Caruth, Jr., Police
8 Institute at Dallas, and the Texas Police Chiefs Association shall
9 develop guidelines for submitting in a standard format the report
10 containing incident-based data as required by Article 2.134, Code
11 of Criminal Procedure.

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

14 (a) Except as provided by Subsection (d), the commission
15 shall revoke or suspend a license, place on probation a person whose
16 license has been suspended, or reprimand a license holder for a
17 violation of:

- 18 (1) this chapter;
19 (2) the reporting requirements provided by Articles
20 2.132 and 2.134, Code of Criminal Procedure; or
21 (3) a commission rule.

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

27 (b) The imposition of a cost of court under Article 102.022,

1 Code of Criminal Procedure, as added by this Act, applies only to an
2 offense committed on or after the effective date of this Act. An
3 offense committed before the effective date of this Act is covered
4 by the law in effect when the offense was committed, and the former
5 law is continued in effect for that purpose. For purposes of this
6 section, an offense was committed before the effective date of this
7 Act if any element of the offense occurred before that date.

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