

By: Thompson

H.B. No. 3430

A BILL TO BE ENTITLED

AN ACT

relating to law enforcement policies on racial profiling in certain counties.

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

SECTION 1. Chapter Two, Code of Criminal Procedure, is amended by adding a new Articles 2.132A through 2.138A to read as follows:

Article 2.132A. RACIAL PROFILING IN CERTAIN COUNTIES. (a) Articles 2.132A, 2.133A, 2.134A, 2.135A, 2.136A, 2.137A, and 2.138A apply to all law enforcement agencies in counties which have any geographic portions of a municipality with a population of 1.9 million or more.

(b) Each law enforcement agency in the counties in which this article applies 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 agency from engaging in racial profiling;

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

(4) provide public education relating to the agency's

1 complaint process;

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

6 (6) require collection of information relating to
7 traffic stops and to arrests resulting from those traffic stops,
8 including information relating to:

9 (A) the race or ethnicity of the individual
10 detained;

11 (B) whether a search was conducted; and

12 (C) if a search was conducted, was it conducted
13 by consent, incidental to a lawful arrest and inventory, or other
14 reason; and

15 (7) require the agency, not later than March 1 of each
16 year, to submit-to the governing body of each county or
17 municipality served by the agency and to the Department of Public
18 Safety, in the form prescribed by the department, an annual report
19 of the information collected under Subdivision (6) if the agency is
20 an agency of a county, municipality or ether. political subdivision
21 of the state. The report must be sent to the Department of Public
22 Safety in a standardized format as developed by the Department of
23 Public Safety.

24 (c) The data collected as a result of the reporting
25 requirements of this article shall not constitute prima facie
26 evidence of racial profiling.

27 (d) On adoption of a policy under Subsection (b), a law

1 enforcement agency shall examine the feasibility of installing
2 video camera and transmitter-activated equipment in each agency law
3 enforcement motor vehicle regularly used to make traffic stops and
4 transmitter-activated equipment in each agency law enforcement
5 motorcycle regularly used to make traffic stops. If a policy
6 adopted by the agency under Subsection (b) must include standards
7 for reviewing video and audio documentation. If an agency installs
8 video or audio equipment as provided in this subsection, the policy
9 adopted by the agency under Subsection (b) shall mandate that the
10 agency shall retain the video and audio or audio documentation of
11 each traffic and pedestrian stop for at least 90 days after the date
12 of the stop.

13 (e) If a complaint is filed with the law enforcement agency
14 alleging that a peace officer employed by the agency has engaged in
15 racial profiling with respect to a traffic or pedestrian stop, the
16 agency shall retain the video and audio or audio record of the stop
17 until final disposition of the complaint. In addition,
18 investigators of any complaint or a legal representative of the
19 complainant may order the retention of any or all other video and
20 audio or audio records of stops made by the officer complained
21 against during the previous 90 days until final disposition of the
22 original complaint.

23 (f) A report required under Subsection (b)(7) may not
24 include identifying information about a peace officer who makes a
25 traffic stop or about an individual who is stopped or arrested by a
26 peace officer. This subsection does not affect the collection of
27 information as required by a policy under Subsection (b)(6).

1 (g) On the commencement of an investigation by a law
2 enforcement agency of a complaint described by Subsection (b)(3) in
3 which a video or audio recording of the occurrence on which the
4 complaint is based was made, the agency shall promptly provide a
5 copy of the recording to the peace officer who is the subject of the
6 complaint on written request by the officer.

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

9 Art. 2.133. REPORTS REQUIRED FOR TRAFFIC AND PEDESTRIAN
10 STOPS.

11 (a) In this article:

12 (1) "Race or ethnicity" and has the meaning assigned
13 by Article 2.132(a).

14 (2) "Traffic stop" means the stopping of a motor
15 vehicle by a peace officer for a possible violation of the law.

16 (b) A peace officer who conducts a traffic stop shall report
17 to the law enforcement agency that employs the officer information
18 relating to the stop.

19 SECTION 3. This Act takes effect January 1, 2006.