

By: West

S.B. No. 1503

A BILL TO BE ENTITLED

AN ACT

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

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

SECTION 1. Subsections (a), (b), and (d), Article 2.132, Code of Criminal Procedure, are amended 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 agency from engaging in racial profiling;

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

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

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

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

15 ~~[(A) the race or ethnicity of the individual
16 detained; and~~

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

19 ~~[(7) require the agency to submit to the governing
20 body of each county or municipality served by the agency an annual
21 report of the information collected under Subdivision (6) if the
22 agency is an agency of a county, municipality, or other political
23 subdivision of the state].~~

24 (d) On adoption of a policy under Subsection (b), a law
25 enforcement agency shall examine the feasibility of installing
26 video camera and transmitter-activated equipment in each agency law
27 enforcement motor vehicle regularly used to make motor vehicle
[~~traffic~~] stops and transmitter-activated equipment in each agency

1 law enforcement motorcycle regularly used to make motor vehicle
2 [~~traffic~~] stops. If a law enforcement agency installs video or
3 audio equipment as provided by this subsection, the policy adopted
4 by the agency under Subsection (b) must include standards for
5 reviewing video and audio documentation.

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

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

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

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

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

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

24 (A) the person's gender; and

25 (B) the person's race or ethnicity, as stated by
26 the person or, if the person does not state the person's race or
27 ethnicity, as determined by the officer to the best of the officer's

1 ability;

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

4 (3) whether the officer conducted a search as a result
5 of the stop and, if so, whether the person detained consented to the
6 search;

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

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

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

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

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

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

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

26 (8) whether the officer issued a verbal or written
27 warning or a citation as a result of the stop [~~including a~~

1 ~~description of the warning or a statement of the violation~~
2 ~~charged].~~

3 SECTION 3. Subsections (b) through (e), Article 2.134, Code
4 of Criminal Procedure, are amended to read as follows:

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 February 15 [~~March 1~~] of each year,
8 each [~~local~~] law enforcement agency shall submit a report
9 containing the incident-based data [~~information~~] compiled during
10 the previous calendar year to the bureau of identification and
11 records of the Department of Public Safety and, if the 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 include:

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

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

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

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

26 (d) A report required under Subsection (b) may not include
27 identifying information about a peace officer who makes a motor

1 vehicle [~~traffic or pedestrian~~] stop or about an individual who is
2 stopped or arrested by a peace officer. This subsection does not
3 affect the reporting of information required under Article
4 2.133(b)(1).

5 (e) The Commission on Law Enforcement Officer Standards and
6 Education shall develop guidelines for compiling [~~and reporting~~]
7 information as required by this article.

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

10 Art. 2.135. RETENTION OF RECORDS BASED ON MOTOR VEHICLE
11 STOP [~~EXEMPTION FOR AGENCIES USING VIDEO AND AUDIO EQUIPMENT~~].

12 SECTION 5. Subsection (b), Article 2.135, Code of Criminal
13 Procedure, is amended to read as follows:

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

27 SECTION 6. Chapter 2, Code of Criminal Procedure, is

1 amended by adding Article 2.1385 to read as follows:

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

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

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

15 SECTION 7. Subchapter A, Chapter 102, Code of Criminal
16 Procedure, is amended by adding Article 102.022 to read as follows:

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

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

24 (b) A defendant convicted of a moving violation in a justice
25 court, county court, county court at law, or municipal court shall
26 pay a fee of 15 cents as a cost of court.

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

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

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

4 (3) the court defers final disposition of the person's
5 case.

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

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

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

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

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

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

26 (h) The comptroller shall deposit the funds received under
27 this article to the credit of the Institute on Race, Crime, and

1 Justice fund in the general revenue fund.

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

4 SECTION 8. Section 102.061, Government Code, is amended to
5 read as follows:

6 Sec. 102.061. ADDITIONAL COURT COSTS ON CONVICTION IN
7 STATUTORY COUNTY COURT. The clerk of a statutory county court shall
8 collect fees and costs on conviction of a defendant as follows:

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

11 (2) a fee for services of the clerk of the court (Art.
12 102.005, Code of Criminal Procedure) . . . \$40;

13 (3) a records management and preservation services fee
14 (Art. 102.005, Code of Criminal Procedure) . . . \$20;

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

17 (5) a graffiti eradication fee (Art. 102.0171, Code of
18 Criminal Procedure) . . . \$5;

19 (5-a) a civil justice fee (Art. 102.022, Code of
20 Criminal Procedure) . . . \$0.15; and

21 (6) a court cost on conviction in Comal County (Sec.
22 152.0522, Human Resources Code) . . . \$4.

23 SECTION 9. Section 102.081, Government Code, is amended to
24 read as follows:

25 Sec. 102.081. ADDITIONAL COURT COSTS ON CONVICTION IN
26 COUNTY COURT. The clerk of a county court shall collect fees and
27 costs on conviction of a defendant as follows:

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

3 (2) a fee for clerk of the court services (Art.
4 102.005, Code of Criminal Procedure) . . . \$40;

5 (3) a records management and preservation services fee
6 (Art. 102.005, Code of Criminal Procedure) . . . \$20;

7 (4) a security fee on a misdemeanor offense (Art.
8 102.017, Code of Criminal Procedure) . . . \$3; ~~and~~

9 (5) a graffiti eradication fee (Art. 102.0171, Code of
10 Criminal Procedure) . . . \$5; and

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

13 SECTION 10. Section 102.101, Government Code, is amended to
14 read as follows:

15 Sec. 102.101. ADDITIONAL COURT COSTS ON CONVICTION IN
16 JUSTICE COURT. A clerk of a justice court shall collect fees and
17 costs on conviction of a defendant as follows:

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

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

23 (3) a jury fee for two or more defendants tried jointly
24 (Art. 102.004, Code of Criminal Procedure) . . . one jury fee of
25 \$3;

26 (4) a security fee on a misdemeanor offense (Art.
27 102.017, Code of Criminal Procedure) . . . \$3;

(5) a fee for technology fund on a misdemeanor offense (Art. 102.0173, Code of Criminal Procedure) . . . not to exceed \$4;

(5-a) a civil justice fee (Art. 102.022, Code of Criminal Procedure) . . . \$0.15; and

(6) a court cost on conviction in Comal County (Sec. 152.0522, Human Resources Code) . . . \$1.50.

SECTION 11. Section 102.121, Government Code, is amended to read as follows:

Sec. 102.121. ADDITIONAL COURT COSTS ON CONVICTION IN MUNICIPAL COURT. 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;

(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) . . . \$3; ~~and~~

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

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

SECTION 12. Subchapter D, Chapter 411, Government Code, is

1 amended by adding Section 411.052 to read as follows:

2 Sec. 411.052. COLLECTION OF CERTAIN INCIDENT-BASED DATA
3 SUBMITTED BY LAW ENFORCEMENT AGENCIES. The department, through its
4 bureau of identification and records, shall collect and maintain
5 the incident-based data submitted to the department under Article
6 2.134, Code of Criminal Procedure, including the incident-based
7 data compiled by the department based on the reports received by the
8 department under Article 2.133 of that code. The department, the
9 Commission on Law Enforcement Officer Standards and Education, the
10 Bill Blackwood Law Enforcement Management Institute of Texas, and
11 the University of North Texas shall develop guidelines for
12 submitting in a standard format the report containing the
13 incident-based data as required by Article 2.134, Code of Criminal
14 Procedure.

15 SECTION 13. The following statutes are repealed:

16 (1) Subsections (c) and (e), Article 2.132, Code of
17 Criminal Procedure;

18 (2) Subsection (a), Article 2.134, Code of Criminal
19 Procedure; and

20 (3) Subsections (a) and (c), Article 2.135, Code of
21 Criminal Procedure.

22 SECTION 14. (a) The requirements of Articles 2.133 and
23 2.134, Code of Criminal Procedure, as amended by this Act, relating
24 to the compilation, analysis, and submission of incident-based data
25 apply only to information based on a motor vehicle stop occurring on
26 or after January 1, 2006.

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 was committed before that date.

8 SECTION 15. This Act takes effect September 1, 2005.