

By: Janek

S.B. No. 1565

A BILL TO BE ENTITLED

AN ACT

relating to the collection, retention, and reporting of law enforcement data relating to traffic and pedestrian stops.

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

SECTION 1. Subsections (b) and (d), Article 2.132, Code of Criminal Procedure, are amended to read as follows:

(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;

(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 complaint process;

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

(6) require collection of information relating to traffic stops [~~in which a citation is issued~~] and to arrests

1 resulting from those traffic stops, including information relating
2 to:

3 (A) the race or ethnicity of the individual
4 detained; ~~and~~

5 (B) whether a search was conducted ~~and, if so,~~
6 ~~whether the person detained consented to the search~~; and

7 (C) if a search was conducted, whether the search
8 was conducted by consent, was incidental to a lawful arrest and
9 inventory, or was conducted for another reason; and

10 (7) require the agency to submit to the governing body
11 of each county or municipality served by the agency and to the
12 Department of Public Safety, not later than March 1 of each year, an
13 annual report of the information collected under Subdivision (6) if
14 the agency is an agency of a county, municipality, or other
15 political subdivision of the state. The report must be sent to the
16 Department of Public Safety in a standardized format as developed
17 by the department.

18 (d) On adoption of a policy under Subsection (b), a law
19 enforcement agency shall examine the feasibility of installing
20 video camera and transmitter-activated equipment in each agency law
21 enforcement motor vehicle regularly used to make traffic stops and
22 transmitter-activated equipment in each agency law enforcement
23 motorcycle regularly used to make traffic stops. If a law
24 enforcement agency installs video or audio equipment as provided by
25 this subsection, the policy adopted by the agency under Subsection
26 (b) must include standards for reviewing video and audio
27 documentation and require that the agency retain the video and

1 audio or audio documentation of each traffic stop for at least 90
2 days after the date of the stop. If a complaint is filed with the
3 law enforcement agency alleging that a peace officer employed by
4 the agency has engaged in racial profiling with respect to a traffic
5 or pedestrian stop, the agency shall retain the video and audio or
6 audio record of the stop until final disposition of the complaint.

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

9 Art. 2.133. DATA COLLECTION AND REPORTS REQUIRED FOR
10 TRAFFIC [~~AND PEDESTRIAN~~] STOPS. (a) In this article, "traffic
11 stop" means the stopping of a motor vehicle by a peace officer for a
12 possible violation of the law.

13 (b) A peace officer who initiates a traffic stop shall
14 report to the law enforcement agency that employs the officer
15 information relating to the stop, including:

- 16 (1) the race or ethnicity of any individuals detained;
17 (2) whether a search was conducted; and
18 (3) if a search was conducted, whether the search was
19 conducted by consent, was incidental to a lawful arrest and
20 inventory, or was conducted for another reason.

21 (c) An agency of a county, municipality, or other political
22 subdivision of the state must submit to the governing body of each
23 county or municipality served by the agency and to the Department of
24 Public Safety, not later than March 1 of each year, an annual report
25 of the information collected under Subsection (b). The report must
26 be sent to the Department of Public Safety in a standardized format
27 as developed by the department.

1 (d) A report required under Subsection (c) must include:

2 (1) a comparative analysis of the information compiled
3 under this article to:

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

6 (B) examine the disposition of traffic stops made
7 by officers employed by the agency, including searches resulting
8 from the stops; and

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

12 (e) The data collected as a result of the reporting
13 requirements of this article does not constitute prima facie
14 evidence of racial profiling[+

15 ~~[(1) "Race or ethnicity" has the meaning assigned by~~
16 ~~Article 2.132(a).~~

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

21 ~~[(b) A peace officer who stops a motor vehicle for an~~
22 ~~alleged violation of a law or ordinance regulating traffic or who~~
23 ~~stops a pedestrian for any suspected offense shall report to the law~~
24 ~~enforcement agency that employs the officer information relating to~~
25 ~~the stop, including:~~

26 ~~[(1) a physical description of each person detained as~~
27 ~~a result of the stop, including:~~

1 ~~[(A) the person's gender, and~~

2 ~~[(B) the person's race or ethnicity, as stated by~~
3 ~~the person or, if the person does not state the person's race or~~
4 ~~ethnicity, as determined by the officer to the best of the officer's~~
5 ~~ability;~~

6 ~~[(2) the traffic law or ordinance alleged to have been~~
7 ~~violated or the suspected offense;~~

8 ~~[(3) whether the officer conducted a search as a~~
9 ~~result of the stop and, if so, whether the person detained consented~~
10 ~~to the search;~~

11 ~~[(4) whether any contraband was discovered in the~~
12 ~~course of the search and the type of contraband discovered;~~

13 ~~[(5) whether probable cause to search existed and the~~
14 ~~facts supporting the existence of that probable cause;~~

15 ~~[(6) whether the officer made an arrest as a result of~~
16 ~~the stop or the search, including a statement of the offense~~
17 ~~charged;~~

18 ~~[(7) the street address or approximate location of the~~
19 ~~stop; and~~

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

23 SECTION 3. Article 2.137, Code of Criminal Procedure, is
24 amended to read as follows:

25 Art. 2.137. PROVISION OF FUNDING OR EQUIPMENT. (a) The
26 Department of Public Safety shall adopt rules for providing funds
27 or video and audio equipment to law enforcement agencies for the

1 purpose of installing video and audio equipment in law enforcement
2 motor vehicles regularly used by an officer employed by the agency
3 to make traffic stops [~~as described by Article 2.135(a)(1)(A)~~],
4 including specifying criteria to prioritize funding or equipment
5 provided to law enforcement agencies. The criteria may include
6 consideration of tax effort, financial hardship, available
7 revenue, and budget surpluses. The criteria must give priority to:

8 (1) law enforcement agencies that employ peace
9 officers whose primary duty is traffic enforcement;

10 (2) smaller jurisdictions; and

11 (3) municipal and county law enforcement agencies.

12 (b) The Department of Public Safety shall collaborate with
13 an institution of higher education to identify law enforcement
14 agencies that need funds or video and audio equipment for the
15 purpose of installing video and audio equipment [~~as described by~~
16 ~~Article 2.135(a)(1)(A)~~]. The collaboration may include the use of
17 a survey to assist in developing criteria to prioritize funding or
18 equipment provided to law enforcement agencies.

19 (c) To receive funds or video and audio equipment from the
20 state for the purpose of installing video and audio equipment [~~as~~
21 ~~described by Article 2.135(a)(1)(A)~~], the governing body of a
22 county or municipality, in conjunction with the law enforcement
23 agency serving the county or municipality, shall certify to the
24 Department of Public Safety that the law enforcement agency needs
25 funds or video and audio equipment for that purpose.

26 (d) On receipt of funds or video and audio equipment from
27 the state for the purpose of installing video and audio equipment

1 ~~[as described by Article 2.135(a)(1)(A)]~~, the governing body of a
2 county or municipality, in conjunction with the law enforcement
3 agency serving the county or municipality, shall certify to the
4 Department of Public Safety that the law enforcement agency has
5 installed video and audio equipment ~~[as described by Article~~
6 ~~2.135(a)(1)(A)]~~ and is using the equipment ~~[as required by Article~~
7 ~~2.135(a)(1)]~~.

8 SECTION 4. Article 2.138, Code of Criminal Procedure, is
9 amended to read as follows:

10 Art. 2.138. RULES. The Department of Public Safety may
11 adopt rules to implement Articles 2.131-2.137, except that no rule
12 shall be adopted that directly or indirectly requires more data to
13 be collected than the data required to be reported under Article
14 2.133.

15 SECTION 5. Articles 2.134 and 2.135, Code of Criminal
16 Procedure, are repealed.

17 SECTION 6. This Act takes effect September 1, 2005.