

## **BILL ANALYSIS**

S.B. 1448  
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Criminal Jurisprudence  
Committee Report (Unamended)

### **BACKGROUND AND PURPOSE**

S.B. 1074, passed by the 77th Legislature, Regular Session, 2001, outlawed the controversial practice of racial profiling by law enforcement officers. Under that legislation, an annual report is issued by law enforcement agencies. Since the bill's passage, racial profiling continues to be a topic of discussion. Subsequent meetings with law enforcement and advocacy groups have identified areas of existing law that need to be addressed. Annual reports have not been able to determine if racial profiling exists, but those reports indicate that there are disproportionate statistics associated with stops and searches of minorities when compared to other drivers.

S.B. 1448 refines the system of data collection and analysis to be used in determining the possible incidences of racial profiling. This bill also creates a statewide repository for the annual reports submitted by law enforcement agencies and provides that the repository will be maintained by the Texas Commission on Law Enforcement Standards and Education. The bill eliminates the collection of pedestrian data and information of persons other than the driver mandated by current law. This bill requires a standardized reporting format for information collected by police during motor vehicle stops and requires data collection on police stops whether or not a citation is issued.

### **RULEMAKING AUTHORITY**

It is the committee's opinion that this bill does not expressly grant any additional rulemaking authority to a state officer, department, agency, or institution.

### **ANALYSIS**

Senate Bill 1448 amends Article 2.132, Code of Criminal Procedure (CCP), by defining "motor vehicle stop" to mean an occasion in which a peace officer stops a motor vehicle for an alleged violation of a law or ordinance. Adds the term "Middle Eastern" to the "race or ethnicity" definition. The bill also replaces the term "traffic stop(s)" or "traffic or pedestrian stop(s)" with "motor vehicle stop(s)" throughout the bill.

The bill clarifies that the chief administrator of the law enforcement agency (agency) is required, regardless of whether the administrator is elected, employed, or appointed, to submit to the governing body of each county or municipality served by certain agencies an annual report of the collection of information relating to certain motor vehicle stops. The bill provides that on notice that an agency intentionally failed to submit a report required under Article 2.132(b)(7), CCP, the Commission on Law Enforcement Officer Standards and Education (commission) must begin disciplinary procedures against the chief administrator of the agency.

The bill deletes the term "race" in the definition, and only defines "ethnicity" in Article 2.133, CCP. Also deletes existing text defining "pedestrian stop" in this article. Strikes existing text that specifies "regulating traffic or who stops a pedestrian for any suspected offense" in order to conform to changes. The bill provides that a peace officer who stops a motor vehicle for an alleged violation of a law or ordinance is required to report to the agency that employs the officer information relating to the stop, including:

- a physical description of any person operating the motor vehicle who is detained as a result of the stop, including the person's gender and race or ethnicity;
- the initial reason for the stop;

- whether the officer conducted a search as a result of the stop and whether the person consented to the search;
- whether any contraband or other evidence was discovered in the course of the search and a description of the contraband or evidence;
- the reason for the search, including whether any contraband or other evidence was in plain view, any probable cause or reasonable suspicion existed to perform the search, or the search was performed as a result of the towing of the motor vehicle or the arrest of any person in the motor vehicle;
- 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;
- the street address or approximate location of the stop; and
- whether the officer issued a written warning or a citation as a result of the stop.

The bill amends Article 2.134, CCP, and defines "motor vehicle stop" to have the meaning assigned by Article 2.132, CCP. The bill removes the definition of "pedestrian stop" in Article 2.134, CCP. Requires each agency, rather than each local agency, to submit a report, not later than March 1 of each year, containing the incident-based data compiled during the previous calendar year to the commission and, if the agency is a local agency, to the governing body of each county or municipality served by the agency. Requires that the report be submitted by the chief administrator of the agency, regardless of whether the administrator is elected, employed, or appointed and requires the report to include certain information. Requires the commission, in accordance with Section 1701.162, Occupations Code, to develop guidelines for compiling and reporting information as required by Article 2.134, CCP. Requires the commission, on notice that an agency intentionally failed to submit a report, to begin disciplinary procedures against the chief administrator of the agency.

The bill amends Article 2.135, Code of Criminal Procedure, by exempting the chief administrator of an agency, regardless of whether the administrator is elected, employed, or appointed, from compilation, analysis, and reporting requirements under Article 2.134, Code of Criminal Procedure, under certain circumstances. Defines "motor vehicle stop" as having the meaning assigned by Article 2.132, Code of Criminal Procedure.

The bill also amends Chapter 2, Code of Criminal Procedure, by adding Article 2.1385, which provides that if the chief administrator of a local agency intentionally fails to submit the incident-based data as required by Article 2.134, CCP, 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. 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, CCP, must remit to the comptroller the amount of \$1,000 for each violation. Money collected under this article must be deposited in the state treasury to the credit of the general revenue fund.

The bill adds that in Article 102.022, CCP, "moving violation" means an offense that involves the operation of a motor vehicle, and is classified as a moving violation by the Department of Public Safety under Section 708.052, Transportation Code. A defendant convicted of a moving violation in a justice court, county court, county court at law, or municipal court is required to pay a fee of 15 cents as a cost of court. In Article 102.022, CCP, a person is considered convicted if a sentence is imposed on the person, the person receives community supervision, including deferred adjudication, or the court defers final disposition of the person's case. The clerks of the respective courts must collect the costs. The clerk shall keep separate records of the funds collected as costs and shall deposit the funds in the county or municipal treasury, as appropriate. The custodian of a county or municipal treasury must keep records of the amount of funds collected on deposit, and send to the comptroller before the last day of the first month following each calendar quarter during the preceding quarter. A county or municipality may retain 10 percent of the funds collected under Article 102.022, CCP, by an officer of the county or municipality as a collection fee if the custodian of the county or municipal treasury complies with Article 102.022(e), CCP. If no funds due as costs are deposited in a county or municipal treasury in a calendar quarter, the custodian of the treasury must file the report required for the quarter in the regular manner and must state that no funds were collected. The comptroller shall

deposit the funds to the credit of the Civil Justice Data Repository fund in the general revenue fund, to be used only by the commission to implement duties under Section 1701.162, Occupations Code. The funds are subject to audit by the comptroller.

Sections 102.061, 102.081, and 102.121, Government Code, are amended to require the clerk of specified courts to collect certain fees and costs on conviction of a defendant, including a civil justice fee (Art. 102.022, Code of Criminal Procedure) of 15 cents. Reenacts and amends Section 102.101, Government Code, as amended by Chapters 240 and 949, Acts of the 79th Legislature, Regular Session, 2005, to make the same change as described above.

Adds Section 1701.162, Occupations Code, which requires the commission to collect and maintain the incident-based data submitted to the commission under Article 2.134, Code of Criminal Procedure, including incident-based data compiled by an agency from reports received by the agency under Article 2.133, Code of Criminal Procedure. Requires the commission, in consultation with the Department of Public Safety, the Bill Blackwood Law Enforcement Management Institute of Texas, and the University of North Texas, to develop guidelines for submitting in a standard format the report containing incident-based data as required by Article 2.134, Code of Criminal Procedure.

Amends Section 1701.501(a), Occupations Code, to require the commission to revoke or suspend a license, place a person on probation whose license has been suspended, or reprimand a license holder for certain violations, including a violation of the reporting requirements provided by Articles 2.132 and 2.134, Code of Criminal Procedure.

The requirements of Articles 2.132, 2.133, and 2.134, Code of Criminal Procedure, as amended by this Act, relating to the compilation, analysis, and submission of incident-based data apply only to information based on a motor vehicle stop occurring on or after January 1, 2008.

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

#### **EFFECTIVE DATE**

September 1, 2007.