

By: West

S.B. No. 1448

A BILL TO BE ENTITLED

1 AN ACT

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

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

5 SECTION 1. Article 2.132, Code of Criminal Procedure, is
6 amended by amending Subsections (a), (b), (d), and (e) and adding
7 Subsection (g) to read as follows:

8 (a) In this article:

9 (1) "Law enforcement agency" means an agency of the
10 state, or of a county, municipality, or other political subdivision
11 of the state, that employs peace officers who make motor vehicle
12 [~~traffic~~] stops in the routine performance of the officers'
13 official duties.

14 (2) "Motor vehicle stop" means an occasion in which a
15 peace officer stops a motor vehicle for an alleged violation of a
16 law or ordinance.

17 (3) "Race or ethnicity" means of a particular descent,
18 including Caucasian, African, Hispanic, Asian, [~~or~~] Native
19 American, or Middle Eastern descent.

20 (b) Each law enforcement agency in this state shall adopt a
21 detailed written policy on racial profiling. The policy must:

22 (1) clearly define acts constituting racial
23 profiling;

24 (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) if the agency is an
26 agency of a county, municipality, or other political subdivision of
27 the state.

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

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

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

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

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

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

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

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

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

13 (A) the person's gender; and

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

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

20 (3) whether the officer conducted a search as a result
21 of the stop and, if so, whether the person detained consented to the
22 search;

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

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

27 (A) any contraband or other evidence was in plain

1 view;

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

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

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

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

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

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

21 (a) In this article, "motor vehicle [~~pedestrian~~] stop" has
22 the meaning assigned by Article 2.132 [~~means an interaction between~~
23 ~~a peace officer and an individual who is being detained for the~~
24 ~~purpose of a criminal investigation in which the individual is not~~
25 ~~under arrest~~].

26 (b) A law enforcement agency shall compile and analyze the
27 information contained in each report received by the agency under

1 Article 2.133. Not later than March 1 of each year, each [~~local~~]
2 law enforcement agency shall submit a report containing the
3 incident-based data [~~information~~] compiled during the previous
4 calendar year to the Commission on Law Enforcement Officer
5 Standards and Education and, if the law enforcement agency is a
6 local law enforcement agency, to the governing body of each county
7 or municipality served by the agency [~~in a manner approved by the~~
8 ~~agency~~].

9 (c) A report required under Subsection (b) must be submitted
10 by the chief administrator of the law enforcement agency,
11 regardless of whether the administrator is elected, employed, or
12 appointed, and must include:

13 (1) a comparative analysis of the information compiled
14 under Article 2.133 to:

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

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

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

23 (d) A report required under Subsection (b) may not include
24 identifying information about a peace officer who makes a motor
25 vehicle [~~traffic or pedestrian~~] stop or about an individual who is
26 stopped or arrested by a peace officer. This subsection does not
27 affect the reporting of information required under Article

1 2.133(b)(1).

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

6 (g) On notice that a law enforcement agency intentionally
7 failed to submit a report required under Subsection (b), the
8 Commission on Law Enforcement Officer Standards and Education shall
9 begin disciplinary procedures against the chief administrator of
10 the agency.

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

13 Art. 2.135. PARTIAL EXEMPTION FOR AGENCIES USING VIDEO AND
14 AUDIO EQUIPMENT. (a) A peace officer is exempt from the reporting
15 requirement under Article 2.133 and the chief administrator of a
16 law enforcement agency, regardless of whether the administrator is
17 elected, employed, or appointed, is exempt from the compilation,
18 analysis, and reporting requirements under Article 2.134 if:

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

21 (A) each law enforcement motor vehicle regularly
22 used by an officer employed by the agency to make motor vehicle
23 [~~traffic and pedestrian~~] stops is equipped with video camera and
24 transmitter-activated equipment and each law enforcement
25 motorcycle regularly used to make motor vehicle [~~traffic and~~
26 ~~pedestrian~~] stops is equipped with transmitter-activated
27 equipment; and

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

5 (2) the governing body of the county or municipality
6 served by the law enforcement agency, in conjunction with the law
7 enforcement agency, certifies to the Department of Public Safety,
8 not later than the date specified by rule by the department, that
9 the law enforcement agency needs funds or video and audio equipment
10 for the purpose of installing video and audio equipment as
11 described by Subsection (a)(1)(A) and the agency does not receive
12 from the state funds or video and audio equipment sufficient, as
13 determined by the department, for the agency to accomplish that
14 purpose.

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

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

27 (d) In this article, "motor vehicle stop" has the meaning

1 assigned by Article 2.132.

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

4 Art. 2.1385. CIVIL PENALTY. (a) If the chief
5 administrator of a local law enforcement agency intentionally fails
6 to submit the incident-based data as required by Article 2.134, the
7 agency is liable to the state for a civil penalty in the amount of
8 \$1,000 for each violation. The attorney general may sue to collect
9 a civil penalty under this subsection.

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

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

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

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

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

26 (b) A defendant convicted of a moving violation in a justice
27 court, county court, county court at law, or municipal court shall

1 pay a fee of 15 cents as a cost of court.

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

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

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

6 (3) the court defers final disposition of the person's
7 case.

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

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

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

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

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

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

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

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

8 SECTION 7. Section 102.061, Government Code, is amended to
9 read as follows:

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

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

15 (2) a fee for services of the clerk of the court (Art.
16 102.005, Code of Criminal Procedure) . . . \$40;

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

19 (4) a security fee on a misdemeanor offense (Art.
20 102.017, Code of Criminal Procedure) . . . \$3;

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

23 (6) a court cost on conviction in Comal County (Sec.
24 152.0522, Human Resources Code) . . . \$4; ~~and~~

25 (7) a juvenile case manager fee (Art. 102.0174, Code
26 of Criminal Procedure) . . . \$5; and

27 (8) a civil justice fee (Art. 102.022, Code of

1 Criminal Procedure) . . . \$0.15.

2 SECTION 8. Section 102.081, Government Code, is amended to
3 read as follows:

4 Sec. 102.081. ADDITIONAL COURT COSTS ON CONVICTION IN
5 COUNTY COURT. The clerk of a county court shall collect fees and
6 costs 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 graffiti eradication fee (Art. 102.0171, Code of
16 Criminal Procedure) . . . \$5; ~~and~~

17 (6) a juvenile case manager fee (Art. 102.0174, Code
18 of Criminal Procedure) . . . \$5; and

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

21 SECTION 9. Section 102.101, Government Code, as amended by
22 Chapters 240 and 949, Acts of the 79th Legislature, Regular
23 Session, 2005, is reenacted and amended to read as follows:

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

27 (1) a jury fee (Art. 102.004, Code of Criminal

1 Procedure) . . . \$3;

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

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

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

9 (5) a fee for technology fund on a misdemeanor offense
10 (Art. 102.0173, Code of Criminal Procedure) . . . \$4; ~~and~~

11 (6) a court cost on conviction in Comal County (Sec.
12 152.0522, Human Resources Code) . . . \$1.50; ~~and~~

13 (7) a juvenile case manager fee (Art. 102.0174, Code
14 of Criminal Procedure) . . . \$5; and

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

17 SECTION 10. Section 102.121, Government Code, is amended to
18 read as follows:

19 Sec. 102.121. ADDITIONAL COURT COSTS ON CONVICTION IN
20 MUNICIPAL COURT. The clerk of a municipal court shall collect fees
21 and costs on conviction of a defendant as follows:

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

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

27 (3) a jury fee for two or more defendants tried jointly

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

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

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

6 [~~and~~]

7 (6) a juvenile case manager fee (Art. 102.0174, Code
8 of Criminal Procedure) . . . \$5; and

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

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

13 Sec. 1701.162. COLLECTION OF CERTAIN INCIDENT-BASED DATA
14 SUBMITTED BY LAW ENFORCEMENT AGENCIES. The commission shall
15 collect and maintain incident-based data submitted to the
16 commission under Article 2.134, Code of Criminal Procedure,
17 including incident-based data compiled by a law enforcement agency
18 from reports received by the law enforcement agency under Article
19 2.133 of that code. The commission in consultation with the
20 Department of Public Safety, the Bill Blackwood Law Enforcement
21 Management Institute of Texas, and the University of North Texas
22 shall develop guidelines for submitting in a standard format the
23 report containing incident-based data as required by Article 2.134,
24 Code of Criminal Procedure.

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

27 (a) The commission shall revoke or suspend a license, place

1 on probation a person whose license has been suspended, or
2 reprimand a license holder for a violation of:

3 (1) this chapter;

4 (2) the reporting requirements provided by Articles
5 2.132 and 2.134, Code of Criminal Procedure; or

6 (3) a commission rule.

7 SECTION 13. (a) The requirements of Articles 2.132, 2.133,
8 and 2.134, Code of Criminal Procedure, as amended by this Act,
9 relating to the compilation, analysis, and submission of
10 incident-based data apply only to information based on a motor
11 vehicle stop occurring on or after January 1, 2008.

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

20 SECTION 14. This Act takes effect September 1, 2007.