

By: West, Royce

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 resulting from those [~~traffic~~] stops, including  
15 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 person detained consented to the search; and

20 (7) require the chief administrator of the agency,  
21 regardless of whether the administrator is elected, employed, or  
22 appointed, to submit to the governing body of each county or  
23 municipality served by the agency an annual report of the  
24 information collected under Subdivision (6) if the agency is an  
25 agency of a county, municipality, or other political subdivision of  
26 the state.

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

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

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

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

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

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

27 [~~(2)~~ "~~Pedestrian stop~~" means an interaction between a

1 ~~peace officer and an individual who is being detained for the~~  
2 ~~purpose of a criminal investigation in which the individual is not~~  
3 ~~under arrest.]~~

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

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

12 (A) the person's gender; and

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

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

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

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

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

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

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

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

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

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

14                    (8) whether the officer issued a verbal or written  
15 warning or a citation as a result of the stop [~~, including a~~  
16 ~~description of the warning or a statement of the violation~~  
17 ~~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 February 15 [~~March 1~~] of each year,  
2 each [~~local~~] law enforcement agency shall submit a report  
3 containing the incident-based data [~~information~~] compiled during  
4 the previous calendar year to the Commission on Law Enforcement  
5 Officer Standards and Education and, if the law enforcement agency  
6 is a local law enforcement agency, to the governing body of each  
7 county or municipality served by the agency [~~in a manner approved by~~  
8 ~~the 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 shall develop guidelines for compiling [~~and reporting~~]  
4 information as required by this article.

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

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

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

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

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

27 (B) each motor vehicle [~~traffic and pedestrian~~]

1 stop made by an officer employed by the agency that is capable of  
2 being recorded by video and audio or audio equipment, as  
3 appropriate, is recorded by using the equipment; or

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

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.

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

26 (d) In this article, "motor vehicle stop" has the meaning  
27 assigned by Article 2.132.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

27 (h) The comptroller shall deposit the funds received under

1 this article to the credit of the Civil Justice Data Repository fund  
2 in the general revenue fund, to be used only by the Commission on  
3 Law Enforcement Officer Standards and Education to implement duties  
4 under Section 1701.162, Occupations Code.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

8 (2) a fee for clerk of the court services (Art.  
9 102.005, Code of Criminal Procedure) . . . \$40;

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

12 (4) a security fee on a misdemeanor offense (Art.  
13 102.017, Code of Criminal Procedure) . . . \$3;

14 (5) a graffiti eradication fee (Art. 102.0171, Code of  
15 Criminal Procedure) . . . \$5; ~~and~~

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

12 Sec. 1701.162. COLLECTION OF CERTAIN INCIDENT-BASED DATA  
13 SUBMITTED BY LAW ENFORCEMENT AGENCIES. The commission shall  
14 collect and maintain the incident-based data submitted to the  
15 commission under Article 2.134, Code of Criminal Procedure,  
16 including the incident-based data compiled by a law enforcement  
17 agency from the reports received by the law enforcement agency  
18 under Article 2.133 of that code.

19 SECTION 12. Section 1701.501(a), Occupations Code, is  
20 amended to read as follows:

21 (a) The commission shall revoke or suspend a license, place  
22 on probation a person whose license has been suspended, or  
23 reprimand a license holder for a violation of:

24 (1) this chapter;

25 (2) the reporting requirements provided by Articles  
26 2.132 and 2.134, Code of Criminal Procedure; or

27 (3) a commission rule.

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

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

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