

## **BILL ANALYSIS**

S.B. 1120  
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Criminal Jurisprudence  
Committee Report (Unamended)

### **BACKGROUND AND PURPOSE**

The 77th Texas Legislature, Regular Session, 2001, passed S.B. 1074 to outlaw 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 and a national issue.

Subsequent meetings with law enforcement and advocacy groups have identified areas of existing law that need to be addressed. Annual reports have not made it possible to determine whether racial profiling exists, but they indicate that there are disproportionate statistics associated with stops and searches of minorities when compared to other drivers. There has also been a failure by some law enforcement agencies to make the annual report required by current statute available to the public.

The goal of S.B. 1120 is to address those concerns and to refine the system of data gathering and analysis to be used in determining possible incidences of racial profiling. Presently there is no centralized repository for the collection of reports required by state law.

S.B. 1120 amends provisions relating to reports on racial profiling in connection with motor vehicle stops, and provides a penalty.

### **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**

S.B. 1120 amends the Code of Criminal Procedure to require each Texas law enforcement agency's required racial profiling policy to require the chief administrator of the agency, regardless of whether the administrator is elected, employed, or appointed, rather than to require the agency, to submit an annual report of information collected from certain motor vehicle stops, and arrests made as a result of those stops, relating to the race or ethnicity of the individual detained and to whether a search was conducted and whether the individual detained consented to the search, to the Commission on Law Enforcement Officer Standards and Education in addition to the governing body of each county or municipality served by the agency if the agency is an agency of a county, municipality, or other political subdivision of Texas. The bill requires the commission on a finding by the commission that the chief administrator of a law enforcement agency intentionally failed to submit such a report, to begin disciplinary procedures against the chief administrator.

S.B. 1120 removes the definition of "pedestrian stop" for purposes of reports required for traffic stops made by law enforcement officers and makes conforming changes. The bill modifies the list of information required to be reported by a peace officer who stops a motor vehicle for an alleged violation of a law or ordinance to the law enforcement agency that employs the officer to include the following: a physical description of any person operating the motor vehicle detained

as a result of the stop, rather than each person detained as a result of the stop; the initial reason for the stop, rather than the traffic law or ordinance alleged to have been violated or the suspected offense; the reason for the search, including whether any contraband or other evidence was in plain view, whether any probable cause or reasonable suspicion existed to perform the search, or whether the search was performed as a result of the towing of the motor vehicle or the arrest of any person in the motor vehicle, rather than whether probable cause to search existed and the facts supporting the existence of that probable cause; and whether the officer issued a written warning or a citation as a result of the stop rather than a warning or citation as a result of the stop, including a description of the warning or a statement of the violation charged. The bill adds the following to the list of information required to be included in the report: whether any evidence other than contraband was discovered in the course of the search and a description of the evidence and 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.

S.B. 1120 clarifies that each law enforcement agency must submit a report containing the incident-based data compiled during the previous calendar year to the Commission on Law Enforcement Officer Standards and Education in addition to the governing body of each county or municipality served by the agency, if the law enforcement agency is a local law enforcement agency, not later than March 1 of each year. The bill requires the report to be submitted by the chief administrator of the law enforcement agency, regardless of whether the administrator is elected, employed, or appointed, and requires the report to include a comparative analysis of the compiled motor vehicle stop information to evaluate and compare the number of motor vehicle stops, within the applicable jurisdiction, of persons who are recognized as racial or ethnic minorities and persons who are not recognized as racial or ethnic minorities, rather than to determine the prevalence of racial profiling by peace officers employed by the agency. The bill specifies that the motor vehicle stops made by officers employed by an agency, the dispositions of which are the subject of the comparative analysis examination required to be included in the report, are categorized according to the race or ethnicity of the affected persons, as appropriate, including any searches resulting from stops within the applicable jurisdiction. The bill requires the commission, on a finding by the commission that the chief administrator of a law enforcement agency intentionally failed to submit such a report, to begin disciplinary procedures against the chief administrator.

S.B. 1120 clarifies that the exemption from the compilation, analysis, and reporting requirements of provisions regarding motor vehicle stops made by peace officers to the commission applies to the chief administrator of a law enforcement agency, regardless of whether the administrator is elected, employed, or appointed. The bill defines "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 and makes conforming changes. The bill includes Middle Eastern descent in the definition of "race or ethnicity."

S.B. 1120 establishes that a local law enforcement agency is liable to the state for a civil penalty in the amount of \$1,000 for each violation if the chief administrator of the agency intentionally fails to submit the incident-based data as required in the related report. The bill authorizes the attorney general to sue to collect such civil penalty. The bill requires the executive director of a state law enforcement agency that intentionally fails to submit the incident-based data required in the related report to remit to the comptroller of public accounts the amount of \$1,000 for each violation from money appropriated to the agency for the administration of the agency, and requires the money collected from the penalties to be deposited in the state treasury to the credit of the general revenue fund.

S.B. 1120 requires a defendant convicted of a moving violation in a justice court, county court, county court at law, or municipal court to pay a fee of \$0.10 as a cost of court. The bill specifies that 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 bill requires the clerks of the respective courts to collect the court costs,

to keep separate records of the funds collected as costs, and to deposit the funds in the county or municipality treasury, as appropriate. The bill requires the custodian of a county or municipal treasury to keep records of the amount of such court cost funds on deposit and send to the comptroller of public accounts before the last day of the first month following each calendar quarter the funds collected during the preceding quarter. The bill authorizes a county or municipality to retain 10 percent of the funds collected by an officer of the county or municipality as a collection fee if the custodian of the county or municipal treasury complies with the recording and sending requirements. The bill requires the custodian of the treasury to file the report required for the quarter in the regular manner and state that no funds were collected if no funds due as court costs are deposited in a county or municipal treasury in a calendar quarter. The bill requires the comptroller to deposit the funds received to the credit of the Civil Justice Data Repository fund in the general revenue fund, to be used only by the Commission on Law Enforcement Officer Standards and Education to implement the commission's duties regarding the collection of certain incident-based data submitted by law enforcement agencies. The bill specifies that funds collected as court costs from defendants convicted of a moving violation are subject to audit by the comptroller. The bill defines "moving violation."

S.B. 1120 amends Sections 102.061 and 102.081, Government Code, as reenacted and amended by Chapter 921 (H.B. 3167), Acts of the 80th Legislature, Regular Session, 2007, to conform to Chapter 1053 (H.B. 2151), Acts of the 80th Legislature, Regular Session, 2007, relating to the payment of a \$50 juvenile delinquency prevention and graffiti eradication fee and further amends the Government Code to make conforming changes relating to the \$0.10 civil justice fee.

S.B. 1120 amends the Occupations Code to require the commission to collect and maintain incident-based data relating to motor vehicle stops submitted to the commission by law enforcement agencies, including incident-based data compiled by a law enforcement agency from reports received by the law enforcement agency from peace officers who make the motor vehicle stops. The bill requires the commission, in consultation with the Department of Public Safety, the Bill Blackwood Law Enforcement Management Institute of Texas, the W.W. Caruth, Jr., Police Institute at Dallas, and the Texas Police Chiefs Association, to develop guidelines for law enforcement agencies for submitting to the commission in a standard format the report containing incident-based data relating to motor vehicle stops. The bill requires the commission except as otherwise provided by law to revoke or suspend a law enforcement officer license, place on probation a person whose license has been suspended, or reprimand a license holder for a violation of the reporting requirements relating to motor vehicle stops.

S.B. 1120 makes the requirements relating to the compilation, analysis, and submission of incident-based data applicable only to information based on a motor vehicle stop occurring on or after January 1, 2010.

#### **EFFECTIVE DATE**

September 1, 2009.