

By: Taylor of Collin, Fletcher, et al.

H.B. No. 1377

A BILL TO BE ENTITLED

AN ACT

relating to the authority of peace officers to request fingerprints during motor vehicle stops.

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

SECTION 1. Chapter 2, Code of Criminal Procedure, is amended by adding Article 2.32 to read as follows:

Art. 2.32. OBTAINING FINGERPRINTS DURING MOTOR VEHICLE STOP. (a) In this article:

(1) "Citation" means any summons, ticket, or other official document issued to a person by a peace officer that requires the person to respond or appear.

(2) "Motor vehicle stop" means an occasion in which a peace officer stops a motor vehicle based on the officer's reasonable suspicion of an alleged violation of a law or ordinance.

(b) For purposes of accurately determining the person's identity, a peace officer who makes a motor vehicle stop may request and obtain one digital fingerprint from each hand of the person operating the motor vehicle if the person operating the motor vehicle fails to provide to the officer during the stop:

(1) a driver's license issued to the person under Chapter 521 or 522, Transportation Code;

(2) a driver's license or commercial driver's license issued to the person by another state;

(3) a United States passport issued to the person; or

1 (4) any other form of photographic identification
2 issued to the person by a governmental entity.

3 (c) In addition to or instead of the digital fingerprints
4 permitted under Subsection (b), the peace officer may request and
5 obtain one ink fingerprint from each hand of the person if the
6 requirements of Subsection (b) are otherwise met and the officer
7 issues a citation to the person for any offense as part of the motor
8 vehicle stop. An ink fingerprint must be placed on an area of the
9 citation that can be detached from the citation without damaging or
10 altering any information on the citation.

11 (d) The person operating the motor vehicle shall provide the
12 person's fingerprints on a request by the peace officer under
13 Subsection (b) or (c).

14 (e) Subject to Subsection (f), the peace officer and the
15 applicable law enforcement agency may retain a digital or ink
16 fingerprint under this article beyond the duration of the motor
17 vehicle stop only if the person operating the motor vehicle is cited
18 or arrested for an offense during or as a result of the stop.

19 (f) A digital or ink fingerprint taken under this article
20 must be discarded not later than the 30th day after the date the
21 custodian of the fingerprint receives proof from any source that
22 each criminal charge relating to the person's citation or arrest
23 has been resolved as follows:

24 (1) the charge was dismissed with prejudice against
25 the state;

26 (2) the person was acquitted of the charge; or

27 (3) the person was convicted of an offense punishable

1 by fine only or the charge based on such an offense was dismissed
2 for any reason.

3 (g) Based on available information regarding the retention
4 of a fingerprint under Subsection (e), a court shall make a good
5 faith effort to notify each custodian of the defendant's
6 fingerprints as soon as practicable after the occurrence of any
7 disposition of the defendant's case by the court as described by
8 Subsection (f).

9 (h) This article does not prevent a peace officer from
10 obtaining fingerprints through a person's voluntary compliance
11 with the peace officer's request for fingerprints or through any
12 other lawful means.

13 SECTION 2. This Act takes effect immediately if it receives
14 a vote of two-thirds of all the members elected to each house, as
15 provided by Section 39, Article III, Texas Constitution. If this
16 Act does not receive the vote necessary for immediate effect, this
17 Act takes effect September 1, 2011.