

SENATE AMENDMENTS

2nd Printing

By: Johnson of Dallas, Price,
Thompson of Harris, White, Phillips

H.B. No. 245

A BILL TO BE ENTITLED

AN ACT

relating to certain reporting requirements for law enforcement agencies; providing a civil penalty.

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

SECTION 1. Articles 2.139(c) and (e), Code of Criminal Procedure, as added by Chapter 516 (H.B. 1036), Acts of the 84th Legislature, Regular Session, 2015, are amended to read as follows:

(c) Not later than the 30th day after the date of an officer-involved injury or death, the law enforcement agency employing an officer involved in the incident must complete and submit a written or electronic report, using the form created under Subsection (b), to the office of the attorney general [~~and, if the agency maintains an Internet website, post a copy of the report on the agency's website~~]. The report must include all information described in Subsection (b).

(e) Not later than March [~~February~~] 1 of each year, the office of the attorney general shall submit a report regarding all officer-involved injuries or deaths that occurred during the preceding year to the governor and the standing legislative committees with primary jurisdiction over criminal justice matters. The report must include:

(1) the total number of officer-involved injuries or deaths;

(2) a summary of the reports submitted to the office

1 under this article; and

2 (3) a copy of each report submitted to the office under
3 this article.

4 SECTION 2. Articles 2.1395(b) and (c), Code of Criminal
5 Procedure, are amended to read as follows:

6 (b) Not later than the 30th day after the date of the
7 occurrence of an incident described by Subsection (a), the law
8 enforcement agency employing the injured or deceased officer at the
9 time of the incident must complete and submit a written or
10 electronic report, using the form created under that subsection, to
11 the office of the attorney general [~~and, if the agency maintains an~~
12 ~~Internet website, post a copy of the report on the agency's~~
13 ~~website~~]. The report must include all information described in
14 Subsection (a).

15 (c) Not later than March [~~February~~] 1 of each year, the
16 office of the attorney general shall submit a report regarding all
17 incidents described by Subsection (a) that occurred during the
18 preceding year to the governor and the standing legislative
19 committees with primary jurisdiction over criminal justice
20 matters. The report must include:

21 (1) the total number of incidents that occurred;

22 (2) a summary of the reports submitted to the office
23 under this article; and

24 (3) a copy of each report submitted to the office under
25 this article.

26 SECTION 3. Chapter 2, Code of Criminal Procedure, is
27 amended by adding Article 2.13951 to read as follows:

1 Art. 2.13951. NOTICE OF VIOLATION OF REPORTING REQUIREMENTS
2 FOR CERTAIN INJURIES OR DEATHS; CIVIL PENALTY. (a) The office of
3 the attorney general shall conduct an investigation after receiving
4 a report or other information that a law enforcement agency failed
5 to submit a report required by Article 2.139 or 2.1395. If the
6 office determines that the law enforcement agency failed to submit
7 the report, the office shall provide notice of the failure to the
8 agency. The notice must summarize the applicable reporting
9 requirement and state that the agency may be subject to a civil
10 penalty as provided by Subsection (b) or (c), as applicable.

11 (b) Except as provided by Subsection (c), a law enforcement
12 agency that fails to submit the required report on or before the
13 seventh day after the date of receiving notice under Subsection (a)
14 is liable for a civil penalty in the amount of \$1,000 for each day
15 after the seventh day that the agency fails to submit the report.

16 (c) Beginning on the day after the date of receiving notice
17 under Subsection (a), a law enforcement agency that, in the
18 five-year period preceding the date the agency received the notice,
19 has been liable for a civil penalty under Subsection (b) or this
20 subsection is liable for a civil penalty for each day the agency
21 fails to submit the required report. The amount of a civil penalty
22 under this subsection is \$10,000 for the first day and \$1,000 for
23 each additional day that the agency fails to submit the report.

24 (d) The attorney general may sue to collect a civil penalty
25 under this article.

26 (e) A civil penalty collected under this article shall be
27 deposited to the credit of the compensation to victims of crime fund

1 established under Subchapter B, Chapter 56.

2 SECTION 4. Article 2.139, Code of Criminal Procedure, as
3 added by Chapter 1124 (H.B. 3791), Acts of the 84th Legislature,
4 Regular Session, 2015, is redesignated as Article 2.1396, Code of
5 Criminal Procedure.

6 SECTION 5. The changes in law made by this Act apply only to
7 a report required to be submitted on or after the effective date of
8 this Act. A report required to be submitted before the effective
9 date of this Act is subject to the law in effect at the time the
10 report was required to be submitted, and the former law is continued
11 in effect for that purpose.

12 SECTION 6. To the extent of any conflict, this Act prevails
13 over another Act of the 85th Legislature, Regular Session, 2017,
14 relating to nonsubstantive additions to and corrections in enacted
15 codes.

16 SECTION 7. This Act takes effect September 1, 2017.

ADOPTED

MAY 23 2017

Leta Staw
Secretary of the Senate

By: Whitmore

H.B. No. 245

Substitute the following for H.B. No. 245:

By: [Signature]

C.S. H.B. No. 245

A BILL TO BE ENTITLED

AN ACT

1
2 relating to certain reporting requirements for law enforcement
3 agencies and to the creation of a criminal justice web portal by the
4 office of the attorney general; providing a civil penalty.

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

6 SECTION 1. Articles 2.139(c) and (e), Code of Criminal
7 Procedure, as added by Chapter 516 (H.B. 1036), Acts of the 84th
8 Legislature, Regular Session, 2015, are amended to read as follows:

9 (c) Not later than the 30th day after the date of an
10 officer-involved injury or death, the law enforcement agency
11 employing an officer involved in the incident must complete and
12 submit a written or electronic report, using the form created under
13 Subsection (b), to the office of the attorney general [~~and, if the~~
14 ~~agency maintains an Internet website, post a copy of the report on~~
15 ~~the agency's website~~]. The report must include all information
16 described in Subsection (b).

17 (e) Not later than March [~~February~~] 1 of each year, the
18 office of the attorney general shall submit a report regarding all
19 officer-involved injuries or deaths that occurred during the
20 preceding year to the governor and the standing legislative
21 committees with primary jurisdiction over criminal justice
22 matters. The report must include:

23 (1) the total number of officer-involved injuries or
24 deaths;

1 (2) a summary of the reports submitted to the office
2 under this article; and

3 (3) a copy of each report submitted to the office under
4 this article.

5 SECTION 2. Articles 2.1395(b) and (c), Code of Criminal
6 Procedure, are amended to read as follows:

7 (b) Not later than the 30th day after the date of the
8 occurrence of an incident described by Subsection (a), the law
9 enforcement agency employing the injured or deceased officer at the
10 time of the incident must complete and submit a written or
11 electronic report, using the form created under that subsection, to
12 the office of the attorney general [~~and, if the agency maintains an~~
13 ~~Internet website, post a copy of the report on the agency's~~
14 ~~website~~]. The report must include all information described in
15 Subsection (a).

16 (c) Not later than March [~~February~~] 1 of each year, the
17 office of the attorney general shall submit a report regarding all
18 incidents described by Subsection (a) that occurred during the
19 preceding year to the governor and the standing legislative
20 committees with primary jurisdiction over criminal justice
21 matters. The report must include:

22 (1) the total number of incidents that occurred;

23 (2) a summary of the reports submitted to the office
24 under this article; and

25 (3) a copy of each report submitted to the office under
26 this article.

27 SECTION 3. Chapter 2, Code of Criminal Procedure, is

1 amended by adding Article 2.13951 to read as follows:

2 Art. 2.13951. NOTICE OF VIOLATION OF REPORTING REQUIREMENTS
3 FOR CERTAIN INJURIES OR DEATHS; CIVIL PENALTY. (a) The office of
4 the attorney general shall conduct an investigation after receiving
5 a written and signed report, on a form prescribed by the office,
6 asserting that a law enforcement agency failed to submit a report
7 required by Article 2.139 or 2.1395. If the office determines that
8 the law enforcement agency failed to submit the report, the office
9 shall provide notice of the failure to the agency. The notice must
10 summarize the applicable reporting requirement and state that the
11 agency may be subject to a civil penalty as provided by Subsection
12 (b) or (c), as applicable.

13 (b) Except as provided by Subsection (c), a law enforcement
14 agency that fails to submit the required report on or before the
15 seventh day after the date of receiving notice under Subsection (a)
16 is liable for a civil penalty in the amount of \$1,000 for each day
17 after the seventh day that the agency fails to submit the report.

18 (c) Beginning on the day after the date of receiving notice
19 under Subsection (a), a law enforcement agency that, in the
20 five-year period preceding the date the agency received the notice,
21 has been liable for a civil penalty under Subsection (b) or this
22 subsection is liable for a civil penalty for each day the agency
23 fails to submit the required report. The amount of a civil penalty
24 under this subsection is \$10,000 for the first day and \$1,000 for
25 each additional day that the agency fails to submit the report.

26 (d) The attorney general may sue to collect a civil penalty
27 under this article.

1 (e) A civil penalty collected under this article shall be
2 deposited to the credit of the compensation to victims of crime fund
3 established under Subchapter B, Chapter 56.

4 SECTION 4. Subchapter B, Chapter 402, Government Code, is
5 amended by adding Section 402.040 to read as follows:

6 Sec. 402.040. CRIMINAL JUSTICE WEB PORTAL. (a) The office
7 of the attorney general shall develop and maintain a web portal to
8 collect, compile, and analyze data related to criminal justice in
9 this state. The office shall ensure that the web portal is
10 accessible through the state electronic Internet portal project.

11 (b) The attorney general shall direct each law enforcement
12 agency to submit through the web portal any report required to be
13 submitted by the agency to the office of the attorney general under
14 any law, including information reported under Articles 2.139 and
15 2.1395, Code of Criminal Procedure, but excluding information
16 reported under Chapter 56, Code of Criminal Procedure.

17 (c) The web portal must:

18 (1) provide access to reports submitted to the office
19 of the attorney general through the web portal, other than reports
20 that are confidential or protected from disclosure under state or
21 federal law; and

22 (2) include an interactive dashboard that provides an
23 analysis and a visual representation of the data included in the
24 reports described by Subdivision (1).

25 (d) The reports and dashboard required by Subsection (c)
26 must be accessible to the public.

27 (e) In developing the web portal, the office of the attorney

1 general may contract or consult with a nonprofit organization that
2 specializes in web-based data analysis.

3 SECTION 5. Article 2.139, Code of Criminal Procedure, as
4 added by Chapter 1124 (H.B. 3791), Acts of the 84th Legislature,
5 Regular Session, 2015, is redesignated as Article 2.1396, Code of
6 Criminal Procedure, to read as follows:

7 Art. 2.1396 [~~2.139~~]. VIDEO RECORDINGS OF ARRESTS FOR
8 INTOXICATION OFFENSES. A person stopped or arrested on suspicion
9 of an offense under Section 49.04, 49.045, 49.07, or 49.08, Penal
10 Code, is entitled to receive from a law enforcement agency
11 employing the peace officer who made the stop or arrest a copy of
12 any video made by or at the direction of the officer that contains
13 footage of:

- 14 (1) the stop;
15 (2) the arrest;
16 (3) the conduct of the person stopped during any
17 interaction with the officer, including during the administration
18 of a field sobriety test; or
19 (4) a procedure in which a specimen of the person's
20 breath or blood is taken.

21 SECTION 6. Not later than September 1, 2018, the office of
22 the attorney general shall develop the web portal required under
23 Section 402.040, Government Code, as added by this Act.

24 SECTION 7. The changes in law made by this Act to Chapter 2,
25 Code of Criminal Procedure, apply only to a report required to be
26 submitted on or after the effective date of this Act. A report
27 required to be submitted before the effective date of this Act is

1 subject to the law in effect at the time the report was required to
2 be submitted, and the former law is continued in effect for that
3 purpose.

4 SECTION 8. To the extent of any conflict, this Act prevails
5 over another Act of the 85th Legislature, Regular Session, 2017,
6 relating to nonsubstantive additions to and corrections in enacted
7 codes.

8 SECTION 9. This Act takes effect September 1, 2017.

ADOPTED

FLOOR AMENDMENT NO. 1

MAY 23 2017

BY: Whitmire

Lacey Spaw
Secretary of the Senate

- 1 Amend C.S.H.B. 245 (senate committee printing) as follows:
- 2 (1) Strike SECTION 4 of the bill, adding Section 402.040,
- 3 Government Code (page 2, lines 42 through 67).
- 4 (2) Strike SECTION 6 of the bill, adding transition
- 5 language regarding Section 402.040, Government Code, as added by
- 6 the bill (page 3, lines 17 through 19).
- 7 (3) Renumber the remaining SECTIONS of the bill
- 8 accordingly.

LEGISLATIVE BUDGET BOARD
Austin, Texas

FISCAL NOTE, 85TH LEGISLATIVE REGULAR SESSION

May 25, 2017

TO: Honorable Joe Straus, Speaker of the House, House of Representatives

FROM: Ursula Parks, Director, Legislative Budget Board

IN RE: **HB245** by Johnson, Eric (Relating to certain reporting requirements for law enforcement agencies and to the creation of a criminal justice web portal by the office of the attorney general; providing a civil penalty.), **As Passed 2nd House**

<p>No significant fiscal implication to the State is anticipated.</p>
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The bill would amend the Code of Criminal Procedure to require the Attorney General to conduct an investigation relating to a law enforcement agency's failure to comply with reporting requirements for certain injuries or deaths caused by peace officers. The bill would add a civil penalty if failure to comply continues after notification.

According to the Office of the Attorney General, any additional work resulting from the passage of this bill could be absorbed within current agency resources.

The bill would take effect September 1, 2017.

Local Government Impact

The bill would have an impact on local governments by imposing a civil penalty if it is determined that a law enforcement agency failed to comply with reporting requirements.

Source Agencies: 302 Office of the Attorney General

LBB Staff: UP, JSm, KJo, NV, FR

LEGISLATIVE BUDGET BOARD
Austin, Texas

FISCAL NOTE, 85TH LEGISLATIVE REGULAR SESSION

May 19, 2017

TO: Honorable John Whitmire, Chair, Senate Committee on Criminal Justice

FROM: Ursula Parks, Director, Legislative Budget Board

IN RE: HB245 by Johnson, Eric (Relating to certain reporting requirements for law enforcement agencies and to the creation of a criminal justice web portal by the office of the attorney general; providing a civil penalty.), **Committee Report 2nd House, Substituted**

Estimated Two-year Net Impact to General Revenue Related Funds for HB245, Committee Report 2nd House, Substituted: a negative impact of (\$1,152,505) through the biennium ending August 31, 2019.

The bill would make no appropriation but could provide the legal basis for an appropriation of funds to implement the provisions of the bill.

General Revenue-Related Funds, Five-Year Impact:

Fiscal Year	Probable Net Positive/(Negative) Impact to General Revenue Related Funds
2018	(\$1,016,496)
2019	(\$136,009)
2020	(\$136,009)
2021	(\$136,009)
2022	(\$136,009)

All Funds, Five-Year Impact:

Fiscal Year	Probable Savings/(Cost) from <i>General Revenue Fund</i> 1	Change in Number of State Employees from FY 2017
2018	(\$1,016,496)	1.0
2019	(\$136,009)	1.0
2020	(\$136,009)	1.0
2021	(\$136,009)	1.0
2022	(\$136,009)	1.0

Fiscal Analysis

The bill would amend the Code of Criminal Procedure to require the Attorney General to conduct an investigation relating to a law enforcement agency's failure to comply with reporting

requirements for certain injuries or deaths caused by peace officers. The bill would add a civil penalty if failure to comply continues after notification.

The bill would amend the Government Code to require the Office of the Attorney General (OAG) to develop and maintain a web portal for law enforcement agencies to submit reports required by law and for the web portal to allow public access to these reports.

The bill would take effect September 1, 2017.

Methodology

Under the provisions of the bill, the OAG shall direct law enforcement agencies to submit through the web portal certain reports required by law to be submitted to the OAG. The OAG reports that there are currently three reports that must be filed by law enforcement agencies and district attorneys. These reports are the Chapter 59 Asset Forfeiture Audit Report, the Officer Involved Shooting Report, and the Custodial Death Report. Currently the OAG utilizes 2.0 FTEs to manage and support the reporting program. Since the bill would expand the scope of reported criminal justice data to the OAG, the agency reports they would need an additional one-half FTE to manage the additional workload. The OAG estimates this Legal Assistant III position to cost \$37,440 each year for salary, overhead, and benefits.

In addition to the requirement of directing law enforcement agencies to submit reports through this web portal, the bill also calls for the web portal to include an interactive dashboard that provides analysis and visual representation of the data included in the reports and that this dashboard must be accessible to the public. Implementing the requirements of the bill would require the OAG Information Technology Services (ITS) Division to conduct additional analysis, design, and development for the dashboard and data visualization capabilities called for in the bill. The OAG reports that a business intelligence/visualization tool will need to be procured as a part of this effort. The initial development of the web portal and dashboard will require a one-time expense for outsourced professional services totaling \$878,547 in fiscal year 2018. Additionally, the OAG ITS will require one-half FTE for a Programmer VI position which the agency estimates will cost \$72,369 each year for salary, overhead, and benefits.

Based on the analysis of the Department of Public Safety, duties and responsibilities associated with implementing the provisions of the bill could be accomplished utilizing existing resources.

Technology

Technology costs are estimated to be \$878,547 in the first year for professional services and product development and \$23,940 in each subsequent year for software licenses and developer support.

FTE related IT costs include a one time fiscal year 2018 cost of \$4,200 and a recurring cost of \$2,260 each fiscal year. The FTE technology costs include standard computer desk-top/laptop, software, printer, voice line, and voice mail-box. Annual recurring charges cover network storage and software.

Local Government Impact

The bill would have an impact on local governments by imposing a civil penalty if it is determined that a law enforcement agency failed to comply with reporting requirements.

According to the Texas Association of Counties, the fiscal impact to counties cannot be determined.

Source Agencies: 302 Office of the Attorney General, 405 Department of Public Safety

LBB Staff: UP, KJo, NV, JSm, LBO, RC, JAW, JGA

LEGISLATIVE BUDGET BOARD
Austin, Texas

FISCAL NOTE, 85TH LEGISLATIVE REGULAR SESSION

May 17, 2017

TO: Honorable John Whitmire, Chair, Senate Committee on Criminal Justice

FROM: Ursula Parks, Director, Legislative Budget Board

IN RE: HB245 by Johnson, Eric (Relating to certain reporting requirements for law enforcement agencies; providing a civil penalty.), **As Engrossed**

No significant fiscal implication to the State is anticipated.

The bill would amend the Code of Criminal Procedure to require the Attorney General to conduct an investigation relating to a law enforcement agency's failure to comply with reporting requirements for certain injuries or deaths caused by peace officers. The bill would add a civil penalty if failure to comply continues after notification.

According to the Office of the Attorney General, any additional work resulting from the passage of this bill could be absorbed within current agency resources.

The bill would take effect September 1, 2017.

Local Government Impact

The bill would have an impact on local governments by imposing a civil penalty if it is determined that a law enforcement agency failed to comply with reporting requirements.

Source Agencies: 302 Office of the Attorney General

LBB Staff: UP, KJo, NV, JSm, FR

LEGISLATIVE BUDGET BOARD
Austin, Texas

FISCAL NOTE, 85TH LEGISLATIVE REGULAR SESSION

March 30, 2017

TO: Honorable Phil King, Chair, House Committee on Homeland Security & Public Safety

FROM: Ursula Parks, Director, Legislative Budget Board

IN RE: HB245 by Johnson, Eric (Relating to certain reporting requirements for law enforcement agencies; providing a civil penalty.), **Committee Report 1st House, Substituted**

No significant fiscal implication to the State is anticipated.

The bill would amend the Code of Criminal Procedure to require the Attorney General to conduct an investigation relating to a law enforcement agency's failure to comply with reporting requirements for certain injuries or deaths caused by peace officers. The bill would add a civil penalty if failure to comply continues after notification.

According to the Office of the Attorney General, any additional work resulting from the passage of this bill could be absorbed within current agency resources.

The bill would take effect September 1, 2017.

Local Government Impact

The bill would have an impact on local governments by imposing a civil penalty if it is determined that a law enforcement agency failed to comply with reporting requirements.

Source Agencies: 302 Office of the Attorney General

LBB Staff: UP, JSm, FR, NV

LEGISLATIVE BUDGET BOARD
Austin, Texas

FISCAL NOTE, 85TH LEGISLATIVE REGULAR SESSION

March 11, 2017

TO: Honorable Phil King, Chair, House Committee on Homeland Security & Public Safety

FROM: Ursula Parks, Director, Legislative Budget Board

IN RE: HB245 by Johnson, Eric (Relating to the consequence for a law enforcement agency's failure to comply with reporting requirements for certain injuries or deaths caused by peace officers.), **As Introduced**

No significant fiscal implication to the State is anticipated.

The bill would amend the Code of Criminal Procedure to require the Attorney General to conduct an investigation relating to a law enforcement agency's failure to comply with reporting requirements for certain injuries or deaths caused by peace officers. The bill would restrict Governor's Office Criminal Justice Division grant eligibility if failure to comply is found to be intentional.

According to the Office of the Attorney General, any additional work resulting from the passage of this bill could be absorbed within current agency resources.

The bill would take effect September 1, 2017.

Local Government Impact

The bill would have an impact on local governments by restricting eligibility to receive grant funding from the Governor's Criminal Justice Division if it is determined that a law enforcement agency intentionally failed to comply with reporting requirements.

Source Agencies: 302 Office of the Attorney General

LBB Staff: UP, FR, NV, JSm