

BILL ANALYSIS

Senate Research Center
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C.S.S.B. 1503
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Criminal Justice
4/23/2005
Committee Report (Substituted)

AUTHOR'S/SPONSOR'S STATEMENT OF INTENT

S.B. 1074 was passed by the 77th Legislature, Regular Session, 2001, outlawing the controversial practice of racial profiling by law enforcement. C.S.S.B. 1503, an annual report is issued by police agencies. Since the bill's passage, racial profiling continues to be a topic of discussion.

Subsequent meetings with law enforcement and advocacy groups have identified areas of existing law that need to be addressed. C.S.S.B. 1503 addresses those concerns and provides a better system of data gathering and analysis to be used in determining the incidence of racial profiling.

RULEMAKING AUTHORITY

This bill does not expressly grant any additional rulemaking authority to a state officer, institution, or agency.

SECTION BY SECTION ANALYSIS

SECTION 1. Amends Subchapter J, Chapter 105, Education Code, by adding Section 105.503, as follows:

Sec. 105.503. INSTITUTE ON RACE, CRIME, AND JUSTICE. (a) Defines "institute," "law enforcement agency," and " racial profiling."

(b) Requires the board of regents of the University of North Texas System (board) to establish and operate the Institute on Race, Crime, and Justice (institute) at the University of North Texas at Dallas (university) to examine and provide training regarding issues of race, crime, and justice in this state.

(b-1) Requires the board, until the university operates as a general academic teaching institution, to establish and operate the institute at the University of North Texas campus at Dallas.

(c) Provides that the institute is under the supervision and direction of the board. Requires the board to approve the employment of personnel by and the operating budget of the institute. Provides that an employee of the institute is an employee of the university.

(d) Requires the institute to establish a program to accomplish certain tasks regarding racial profiling and minority participation in law enforcement.

(e) Requires the institute to coordinate the training program described by Subsection (d)(2) with the Bill Blackwood Law Enforcement Management Institute of Texas established under Section 96.64 (Bill Blackwood Law Enforcement Management Institute of Texas).

(f) Requires the institute to take certain actions relating to reporting its results and findings to the public and the legislature.

(g) Requires the institute, after the annual report described by Subsection (f)(1) is published, to delete all badge numbers and other similar identifying law enforcement agency numbers from incident-based data received by the institute on which the annual report is based.

(h) Requires the institute to provide to the governing body of the applicable political subdivision and to the local law enforcement agency of that subdivision an individualized analysis of the relevant data provided to the institute by that local law enforcement agency. Requires the institute, on the local law enforcement agency's request, to provide to the agency a more detailed or specialized version of the analysis described by this subsection, but requires the law enforcement agency to pay the additional costs associated with providing the more specialized or detailed report to the agency under this subsection.

(i) Authorizes the board to establish reasonable charges for participation by law enforcement management personnel in institute training programs. Requires the board to deposit any money from the charges to the credit of the institute fund described by Subsection (g).

(j) Provides that the institute fund is a separate account in the general revenue fund. Authorizes money in the account to be used by the board only to establish and operate the institute. Provides that Section 403.095(b) (Use of Dedicated Revenue), Government Code, does not apply to the account.

SECTION 2. Amends Articles 2.132(a), (b), and (d), Code of Criminal Procedure, as follows:

(a) Redefines "law enforcement agency" and "race or ethnicity." Defines "motor vehicle stop."

(b) Requires each law enforcement agency (agency) in this state to adopt a detailed policy on racial profiling that accomplishes certain tasks. Deletes existing text requiring the policy to include certain information relating to traffic stops and reporting of said information.

(d) Requires a law enforcement agency, on adoption of a policy under Subsection (b), to examine the feasibility of installing video camera and transmitter-activated equipment in each agency law enforcement motor vehicle regularly used to make motor vehicle, rather than traffic, stops and transmitter-activated equipment in each agency motorcycle regularly used to make motor vehicle, rather than traffic, stops.

SECTION 3. Amends Article 2.133, Code of Criminal Procedure, as follows:

Art. 2.133. New heading: **REPORTS REQUIRED FOR MOTOR VEHICLE STOPS.**

(a) Deletes existing text defining "pedestrian stop." Makes nonsubstantive changes.

(b) Requires a peace officer who stops a motor vehicle for an alleged violation of a law or ordinance to report to the agency that employs the officer certain information relating to the stop. Deletes existing text relating to a pedestrian stop.

SECTION 4. Amends Articles 2.134, Code of Criminal Procedure, by amending Subsections (b), (c), (d), and (e) and adding Subsections (d-1) and (g), as follows:

(b) Requires an agency to compile and maintain for purposes of analysis the information contained in each report received by the agency under Article 2.133. Requires each agency, not later than February 15, rather than March 1, of each year, to submit the incident-based data, rather than a report containing the information, compiled during the previous calendar year to the institute. Deletes exiting text requiring the governing body of each county or municipality to receive a report.

(c) Deletes existing text of Subsection (c). Redesignates Subsection (d) as Subsection (c). Requires, rather than prohibits, the incident-based data required under Subsection (b)

to include identifying information, including a badge number or other unique identifying law enforcement agency number, regarding a peace officer who makes a motor vehicle stop or about an individual who is stopped or arrested by a peace officer, but provides that the identifying information is confidential and prohibited from being released to the public.

(d) Requires an agency to analyze the information contained in each report received by the agency under Article 2.133 or, if the agency does not elect to perform the analysis, requires the agency to request the institute to perform the analysis for the agency. Requires the agency, if it elects to analyze the information as described by this subsection, to submit to the institute as part of the required submission under Subsection (b) all incident-based data, including all applicable badge numbers and other similar identifying agency numbers, on which the agency based its analysis. Requires a local law enforcement agency to make its analysis under this subsection available to the governing body of a political subdivision served by the agency.

(d-1) Provides that an agency is required to delete all badge numbers and other similar identifying agency numbers from its records of incident-based data immediately after the institute publishes the annual report based on the data as required by Section 105.503(f)(1), Education Code. Deletes existing text providing that this subsection does not affect the reporting of data required under Article 2.133(b)(1).

(e) Requires the institute jointly to develop guidelines for compiling, analyzing, and submitting in standard format, rather than reporting, information as required by this article.

(g) Entitles any peace officer who is disciplined or terminated from employment based on the data compiled under this article to a hearing. Requires the hearing to be conducted by the State Office of Administrative Hearings in the manner provided for a contested case under Chapter 2001 (Administrative Procedure), Government Code. Provides that the disciplinary or termination decision is binding during the pendency of the appeal. Provides that this subsection does not apply to a peace officer employed by a local law enforcement agency who is subject to a separate formal grievance procedure for decisions relating to the officer's employment.

SECTION 5. Amends the heading to Article 2.135, Code of Criminal Procedure, to read as follows:

Art. 2.135. RETENTION OF RECORDS BASED ON MOTOR VEHICLE STOP.

SECTION 6. Amends Article 2.135(b), Code of Criminal Procedure, as follows:

(b) Deletes existing text relating to an agency being exempt from the requirements under Article 2.134. Defines "motor vehicle stop." Makes conforming changes.

SECTION 7. Amends Chapter 2, Code of Criminal Procedure, by adding Articles 2.1385 and 2.1386, as follows:

Art. 2.1385. CIVIL PENALTY. (a) Provides that if a local law enforcement agency fails to submit the incident-based data as required by Article 2.134, the agency is liable to the state for a civil penalty in the amount of \$1,000 for each violation. Authorizes the attorney general to sue to collect a civil penalty under this subsection.

(b) Requires the executive director of a state law enforcement agency that fails to submit the incident-based data as required by Article 2.134, from money appropriated to the agency for the administration of the agency, to remit to the comptroller of public account (comptroller) the amount of \$1,000 for each violation.

(c) Requires money collected under this article to be deposited in the state treasury to the credit of the general revenue fund.

Art. 2.1386. ADVISORY COMMITTEE. (a) Defines "advisory committee."

(b) Sets forth the composition of the Advisory Committee on Race, Crime, and Justice (committee).

(c) Requires the committee members described by Subsection (b) to seek additional members for the committee from representatives of certain entities.

(d) Requires the committee to meet biennially to study the issue of racial profiling to include data collection, analysis of data, law enforcement training, legislative changes, and other relevant issues.

(e) Requires the committee, not later than November 1 of each even-numbered year, to submit to the legislature a report containing any proposals the committee recommends for legislation to address any perceived deficiencies in current racial profiling laws.

(f) Provides that members of the committee are entitled to reimbursement of expenses in the manner provided by the General Appropriations Act.

SECTION 8. Amends Subchapter A, Chapter 102, Code of Criminal Procedure, by adding Article 102.022, as follows:

Art. 102.022. COSTS ON CONVICTION TO FUND INSTITUTE ON RACE, CRIME, AND JUSTICE. (a) Defines "moving violation."

(b) Requires a defendant convicted of a moving violation in a justice court, county court, county court of law, or municipal court, to pay a fee of 25 cents as a cost of court.

(c) Provides that a person is considered convicted, in this article, if certain conditions exist.

(d) Requires the clerks of the respective courts to collect the costs described by this article. Requires the clerk to keep separate records of the funds collected as costs under this article and to deposit the funds in the county or municipal treasury, as appropriate.

(e) Requires the custodian of a county or municipal treasury to take certain actions relating to recording and depositing funds collected under this article.

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

(g) Requires the custodian of the treasury, if no funds due as costs under this article are deposited in a county or municipal treasury in a calendar quarter, to file the report required for the quarter in the regular manner and to state that no funds were collected.

(h) Requires the comptroller of public accounts (comptroller) to deposit the funds received under this article to the credit of the institute fund in the general revenue fund.

(i) Provides that funds collected under this article are subject to audit by the comptroller.

SECTION 9. Amends Section 102.061, Government Code, to require the clerk of a statutory county court to collect a race, crime, and justice fee (Art. 102.022, Code of Criminal Procedure) on conviction of a defendant.

SECTION 10. Amends Section 102.081, Government Code, to make a conforming change.

SECTION 11. Amends Section 102.101, Government Code, to make a conforming change.

SECTION 12. Amends Section 102.121, Government Code, to make a conforming change.

SECTION 13. Repealer: Articles 2.132(c) and (e) (Law Enforcement Policy on Racial Profiling), 2.134(a) (Compilation and Analysis of Information Collected), and 2.135(a) and (c) (Exemption for Agencies Using Video and Audio Equipment), Code of Criminal Procedure.

SECTION 14. (a) Makes application of Articles 2.133 and 2.134, Code of Criminal Procedure, as amended by this Act, prospective to January 1, 2006.

(b) Requires the institute established under Section 105.503, Education Code, as added by this Act, to submit annual reports under Subsection (f)(1) of that section beginning July 1, 2007.

(c) Makes imposition of a cost of court under Article 102.022, Code of Criminal Procedure, prospective.

SECTION 15. Effective date: September 1, 2005.