

BILL ANALYSIS

Senate Research Center
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C.S.S.B. 1448
By: West, Royce
Criminal Justice
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Committee Report (Substituted)

AUTHOR'S / SPONSOR'S STATEMENT OF INTENT

S.B. 1074, passed by the 77th Legislature, Regular Session, 2001, outlawed 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. Subsequent meetings with law enforcement and advocacy groups have identified areas of existing law that need to be addressed. Annual reports have not been able to determine if racial profiling exists, but those reports indicate that there are disproportionate statistics associated with stops and searches of minorities when compared to other drivers.

C.S.S.B. 1448 refines the system of data collection and analysis to be used in determining the possible incidences of racial profiling. This bill also creates a statewide repository for the annual reports submitted by law enforcement agencies and provides that the repository will be maintained by the Texas Commission on Law Enforcement Standards and Education. The bill eliminates the collection of pedestrian data and information of persons other than the driver mandated by current law. This bill requires a standardized reporting format for information collected by police during motor vehicle stops and requires data collection on police stops whether or not a citation is issued.

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 Article 2.132, Code of Criminal Procedure, by amending Subsections (a), (b), and (e) and adding Subsection (g), as follows:

- (a) Defines "motor vehicle stop." Redefines "law enforcement agency" and "race or ethnicity."
- (b) Requires each law enforcement agency (agency) in Texas to adopt a detailed written policy on racial profiling that includes certain provisions, including the collection of information related to motor vehicle, rather than traffic, stops, and to require the chief administrator of the agency to submit an annual report of the information collected if the agency is an agency of a county, municipality, or other political subdivision of the state. Makes nonsubstantive changes.
- (d) Makes conforming changes.
- (e) Makes a conforming change.
- (g) Requires the Commission on Law Enforcement Officer Standards and Education (commission), on notice that an agency intentionally failed to submit a report required under Subsection (b)(7), to begin disciplinary procedures against the chief administrator of the agency.

SECTION 2. 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."

(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 requiring a peace officer who stops a pedestrian for any suspected offense to report to the agency.

SECTION 3. Amends Article 2.134, Code of Criminal Procedure, by amending Subsections (a) through (e) and adding Subsection (g), as follows:

(a) Defines "motor vehicle stop" and deletes the existing definition for "pedestrian stop."

(b) Requires each agency, rather than each local agency, to submit a report, not later than March 1 of each year, containing the incident-based data, rather than the information, compiled during the previous year to the commission and, if the agency is a local agency, to the governing body of each county or municipality served by the agency.

(c) Requires a report required under Subsection (b) to be submitted by the chief administrator of the agency, regardless of whether the administrator is elected, employed, or appointed and requires the report to contain certain information.

(d) Makes a conforming change.

(e) Requires the commission, in accordance with Section 1701.162, Occupations Code, to develop guidelines for compiling and reporting information as required by this article (Compilation and Analysis of Information Collected).

(g) Requires the commission, on notice that an agency intentionally failed to submit a report required under Subsection (b), to begin disciplinary procedures against the chief administrator of the agency.

SECTION 4. Amends Article 2.135, Code of Criminal Procedure, as follows:

Art. 2.135. New heading: PARTIAL EXEMPTION FOR AGENCIES USING VIDEO AND AUDIO EQUIPMENT. (a) Exempts the chief administrator of an agency, regardless of whether the administrator is elected, employed, or appointed, from compilation, analysis, and reporting requirements under Article 2.134 under certain circumstances.

(b) Makes conforming changes.

(c) Makes no changes to this subsection.

(d) Defines "motor vehicle stop."

SECTION 5. Amends Chapter 2, Code of Criminal Procedure, by adding Article 2.1385, as follows:

Art. 2.1385. CIVIL PENALTY. (a) Provides that an 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 by Article 2.134. Authorizes the attorney general to sue to collect a civil penalty under this subsection.

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

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

SECTION 6. Amends Subchapter A, Chapter 102, Code of Criminal Procedure, by adding Article 102.022, as follows:

Art. 102.022. COSTS ON CONVICTION TO FUND STATEWIDE REPOSITORY FOR DATA RELATED TO CIVIL JUSTICE. (a) Defines "moving violation."

(b) 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 15 cents as a cost of court.

(c) Sets forth certain criteria that is used to consider a person convicted within this article.

(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 perform certain duties.

(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 to deposit the funds received under this article to the credit of the Civil Justice Data Repository fund in the general revenue fund, to be used only by the commission to implement duties under Section 1701.162, Occupations Code.

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

SECTION 7. Amends Section 102.061, Government Code, to require the clerk of a statutory county court to collect certain fees and costs, including a civil justice fee of 15 cents (Art. 102.022, Code of Criminal Procedure), on conviction of a defendant.

SECTION 8. Amends Section 102.081, Government Code, to making a conforming change.

SECTION 9. Reenacts and amends Section 102.101, Government Code, as amended by Chapters 240 and 949, Acts of the 79th Legislature, Regular Session, 2005, to make conforming and nonsubstantive changes.

SECTION 10. Amends Section 102.121, Government Code, to make a conforming change.

SECTION 11. Amends Subchapter D, Chapter 1701, Occupations Code, by adding Section 1701.162, as follows:

Sec. 1701.162. COLLECTION OF CERTAIN INCIDENT-BASED DATA SUBMITTED BY LAW ENFORCEMENT AGENCIES. Requires the commission to collect and maintain the incident-based data submitted to the commission under Article 2.134, Code of Criminal Procedure, including data compiled by an agency from reports

received by the agency under Article 2.133 of that code. Requires the commission, in consultation with the Department of Public Safety, the Bill Blackwood Law Enforcement Management Institute of Texas, and the University of North Texas, to develop guidelines for submitting in a standard format the report containing incident-based data as required by Article 2.134, Code of Criminal Procedure.

SECTION 12. Amends Section 1701.501(a), Occupations Code, to require the commission to revoke or suspend a license, place a person on probation whose license has been suspended, or reprimand a license holder for certain violations, including a violation of the reporting requirements provided by Articles 2.132 and 2.134, Code of Criminal Procedure.

SECTION 13. (a) Makes application of the requirements of Articles 2.132, 2.133, and 2.134, Code of Criminal Procedure, as amended by this Act, prospective to January 1, 2008.

(b) Makes application of Article 102.022, Code of Criminal Procedure, as added by this Act, prospective.

SECTION 14. Effective date: September 1, 2007.