

BILL ANALYSIS

Senate Research Center
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S.B. 1175
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Criminal Justice
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As Filed

AUTHOR'S / SPONSOR'S STATEMENT OF INTENT

Under current law, it is a Class C misdemeanor offense for a person to intentionally refuse to identify himself or herself to a peace officer who has lawfully arrested the person. It is a Class B misdemeanor offense for a person to intentionally give a false or fictitious name, residence address, or date of birth to a peace officer who has lawfully arrested the person or lawfully detained the person. Both offenses are enhanced if, at the time of the offense, the actor was a fugitive from justice.

It is not currently an offense for a person to refuse to identify himself or herself to a peace officer who has lawfully detained the person. Police officers routinely investigate persons found in suspicious places and under suspicious circumstances. The law allows officers to detain these individuals for purposes of an investigation if the officer reasonably believes that the person may be engaged in criminal activity. These detentions are known as "*Terry* stops," referring to the United States Supreme Court case *Terry v. Ohio*, 392 U.S. 1. Although it is well established that an officer is authorized to ask a suspect to identify himself during a *Terry* stop, it has been an open question whether the suspect can be arrested and prosecuted for refusal to answer. In 2004, the Supreme Court answered this question in the case of *Hiibel v. Sixth Judicial District Court of Nevada, Humboldt County, et al.* The *Hiibel* ruling held that the state could prosecute a lawfully detained person who refused to identify himself or herself.

As proposed, S.B. 1175 creates an offense under Section 38.02, Penal Code, for a person who refuses to identify himself or herself to a peace officer who has lawfully detained the person.

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 Section 38.02(a), Penal Code, to provide that a person commits an offense if the person, rather than he, intentionally refuses to give the person's, rather than his, name, residence address, or date of birth to a peace officer who has lawfully arrested or lawfully detained the person and requested the information.

SECTION 2. Makes application of this Act prospective.

SECTION 3. Effective date: September 1, 2009.