

SRC-JBJ S.B. 1074 77(R)BILL ANALYSIS

Senate Research Center S.B. 1074
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Enrolled

DIGEST AND PURPOSE

There is growing concern regarding the practice of racial profiling by law enforcement agencies. S.B. 1074 statutorily defines and prohibits racial profiling and sets forth provisions for the implementation of policies, education and training programs, and the collection and reporting of certain information regarding racial profiling in the practice of law enforcement.

RULEMAKING AUTHORITY

Rulemaking authority is expressly granted to the Department of Public Safety in SECTION 1 (Articles 2.137 and 2.138, Code of Criminal Procedure) of this bill.

SECTION BY SECTION ANALYSIS

SECTION 1. Amends Chapter 2, Code of Criminal Procedure, by adding Articles 2.131 - 2.138, as follows:

Art. 2.131. RACIAL PROFILING PROHIBITED. Prohibits a peace officer from engaging in racial profiling.

Art. 2.132. LAW ENFORCEMENT POLICY ON RACIAL PROFILING. (a) Defines "law enforcement agency" and "race or ethnicity."

(b) Requires each law enforcement agency in this state to adopt a detailed written policy on racial profiling. Requires the policy to meet certain criteria.

(c) Prohibits the date collected as a result of the reporting requirements of this article from constituting prima facie evidence of racial profiling.

(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 traffic stops and transmitter-activated equipment in each agency law enforcement motorcycle regularly used to make traffic stops. Requires the policy adopted by a law enforcement agency under Subsection (b), if the agency installs video or audio equipment as provided by this subsection, to include standards for reviewing video and audio documentation.

(e) Prohibits a report required under Subsection (b)(7) from including identifying information about a peace officer who makes a traffic stop or about an individual who is stopped or arrested by a peace officer. Provides that this subsection does not affect the collection of information as required by a policy under Subsection (b)(6).

(f) Requires the agency, on the commencement of an investigation by a law

enforcement agency of a complaint described by Subsection (b)(3) in which a video or audio recording of the occurrence on which the complaint is based was made, to promptly provide a copy of the recording to the peace officer who is the subject of the complaint on written request by the officer.

Art. 2.133. REPORTS REQUIRED FOR TRAFFIC AND PEDESTRIAN STOPS. Defines "race or ethnicity" and "pedestrian stop." Requires a peace officer who stops a motor vehicle for an alleged violation of a law or ordinance regulating traffic or who stops a pedestrian for any suspected offense to report to the law enforcement agency that employs the officer certain specific information.

Art. 2.134. COMPILATION AND ANALYSIS OF INFORMATION COLLECTED. (a) Defines "pedestrian stop."

(b) Requires a law enforcement agency to compile and analyze the information contained in each report received by the agency under Article 2.133. Requires each local law enforcement agency, not later than March 1 of each year, to submit a report containing the information compiled during the previous calendar year to the governing body of each county or municipality served by the agency in a manner approved by the agency.

(c) Requires that a report required under Subsection (a) include certain specific information.

(d) Prohibits a report under Subsection (a) from including information about a peace officer who makes a traffic or pedestrian stop or about an individual who is stopped or arrested by a peace officer. Provides that this subsection does not affect the reporting of information required under Article 2.133(b)(1).

(e) Requires the Commission on Law Enforcement Officer Standards and Education (commission) to develop guidelines for compiling and reporting information as required by this article.

(f) Prohibits the data collected as a result of the reporting requirements of this article from constituting prima facie evidence of racial profiling.

Art. 2.135. EXEMPTION FOR AGENCIES USING VIDEO AND AUDIO EQUIPMENT. (a) Provides that a peace officer is exempt from the reporting requirement under Article 2.133 and a law enforcement agency is exempt from the compilation, analysis, and reporting requirements under Article 2.134 under certain conditions.

(b) Requires a law enforcement agency that is exempt from the requirements under Article 2.134, except as otherwise provided by this subsection, to retain the video and audio or audio documentation of each traffic and pedestrian stop for at least 90 days after the date of the stop. Requires the law enforcement agency, if a complaint is filed with the agency alleging that a peace officer employed by the agency has engaged in racial profiling with respect to a traffic or pedestrian stop, to retain the video and audio or audio record of the stop until final disposition of the complaint.

(c) Provides that this article does not affect the collection, analysis, or reporting requirements under Article 2.132.

Art. 2.136. LIABILITY. Provides that a peace officer is not liable for damages arising from an act relating to the collection or reporting of information as required by Article 2.133 or under a policy adopted under

Article 2.132.

Art. 2.137. PROVISION OF FUNDING OR EQUIPMENT. (a) Requires the Department of Public Safety (department) to adopt rules for providing funds or video and audio equipment to law enforcement agencies for the purpose of installing video and audio equipment as described by Article 2.135(a)(1)(A), including specifying criteria to prioritize funding or equipment provided to law enforcement agencies. Authorizes the criteria to include certain considerations. Requires the criteria to give certain priorities.

(b) Requires the department to collaborate with an institution of higher education to identify law enforcement agencies that need funds or video and audio equipment for the purpose of installing video and audio equipment as described by Article 2.135(a)(1)(A). Authorizes the collaboration to include the use of a survey to assist in developing criteria to prioritize funding or equipment provided to law enforcement agencies.

(c) Requires the governing body of a county or municipality, in conjunction with the law enforcement agency serving the county or municipality, to receive funds or video and audio equipment from the state for the purpose of installing video and audio equipment as described by Article 2.135(a)(1)(A), to certify to the department that the law enforcement agency needs funds or video and audio equipment for that purpose.

(d) Requires the governing body of a county or municipality, in conjunction with the law enforcement agency serving the county or municipality, on receipt of funds or video and audio equipment from the state for the purpose of installing video and audio equipment as described by Article 2.135(a)(1)(A), to certify to the department that the law enforcement agency has installed video and audio equipment as described by Article 2.135(a)(1)(A) and is using the equipment as required by Article 2.135(a)(1).

Art. 2.138. RULES. Authorizes the department to adopt rules to implement Articles 2.131 2.137.

SECTION 2. Amends Chapter 3, Code of Criminal Procedure, by adding Article 3.05, as follows:

Art. 3.05. RACIAL PROFILING. Defines "racial profiling."

SECTION 3. Amends Section 96.641, Education Code, by adding Subsection (j), to require the Bill Blackwood Law Enforcement Management Institute of Texas (institute), as part of the initial training and continuing education for police chiefs required under this section, to establish a program on racial profiling. Sets forth practices that must be examined by the program.

SECTION 4. Amends Section 1701.253, Occupations Code, by adding Subsection (e), to require the commission, as part of the minimum curriculum requirements, to establish a statewide comprehensive education and training program on racial profiling for officers licensed under this chapter. Requires an officer to complete a program established under this subsection not later than the second anniversary of the date the officer is licensed under this chapter or the date the officer applies for an intermediate proficiency certificate, whichever date is earlier.

SECTION 5. Amends Section 1701.402, Occupations Code, by adding Subsection

(d), to require an officer, as a requirement for an intermediate proficiency certificate, to complete an education and training program on racial profiling established by the commission under Section 1701.253(e).

SECTION 6. Amends Section 543.202, Transportation Code, to define "race or ethnicity." Sets forth information required to be included in the report.

SECTION 7. Sets forth provisions, including a timeline, relating to the adoption and implementation of a policy and the collection and submission of information under this policy as required by Article 2.132, Code of Criminal Procedure, as added by this Act.

SECTION 8. Sets forth provisions relating to the submission of information as required by Article 2.134, Code of Criminal Procedure, as added by this Act.

SECTION 9. Requires the education and training program on racial profiling as required by Section 1701.253(e), Occupations Code, as added by this Act, and the program on racial profiling as required by Section 96.641(j), Education Code, as added by this Act, to be established by January 1, 2002.

SECTION 10. Sets forth provisions relating to the completion by certain persons of an education and training program on racial profiling established under Section 1701.253(e), Occupations Code, as added by this Act.

SECTION 11. Requires an individual appointed or elected as a police chief before the effective date of this Act to complete a program on racial profiling established under Section 96.641(j), Education Code, as added by this Act, not later than September 1, 2003.

SECTION 12. Effective date: September 1, 2001.