

AN ACT

relating to the prevention of racial profiling by certain peace officers.

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

SECTION 1. Chapter 2, Code of Criminal Procedure, is amended by adding Articles 2.131 through 2.138 to read as follows:

Art. 2.131. RACIAL PROFILING PROHIBITED. A peace officer may not engage in racial profiling.

Art. 2.132. LAW ENFORCEMENT POLICY ON RACIAL PROFILING.

(a) In this article:

(1) "Law enforcement agency" means an agency of the state, or of a county, municipality, or other political subdivision of the state, that employs peace officers who make traffic stops in the routine performance of the officers' official duties.

(2) "Race or ethnicity" means of a particular descent, including Caucasian, African, Hispanic, Asian, or Native American descent.

(b) Each law enforcement agency in this state shall adopt a detailed written policy on racial profiling. The policy must:

(1) clearly define acts constituting racial profiling;

(2) strictly prohibit peace officers employed by the agency from engaging in racial profiling;

(3) implement a process by which an individual may file a complaint with the agency if the individual believes that a peace officer employed by the agency has engaged in racial profiling with respect to the individual;

(4) provide public education relating to the agency's complaint process;

(5) require appropriate corrective action to be taken against a peace officer employed by the agency who, after an investigation, is shown to have engaged in racial profiling in violation of the agency's policy adopted under this article;

(6) require collection of information relating to traffic stops in which a citation is issued and to arrests resulting from those traffic stops, including information relating to:

(A) the race or ethnicity of the individual detained; and

(B) whether a search was conducted and, if so, whether the person detained consented to the search; and

(7) require the agency to submit to the governing body of each county or municipality served by the agency an annual report of the information collected under Subdivision (6) if the agency is an agency of a county, municipality, or other political subdivision of the state.

(c) The data collected as a result of the reporting requirements of this article shall not constitute prima facie evidence of racial profiling.

(d) On adoption of a policy under Subsection (b), a law enforcement agency shall 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. If a law enforcement agency installs video or audio equipment as provided by this subsection, the policy adopted by the agency under Subsection (b) must include standards for reviewing video and audio documentation.

(e) A report required under Subsection (b)(7) may not include identifying information about a peace officer who makes a

3-10 traffic stop or about an individual who is stopped or arrested by a
 3-11 peace officer. This subsection does not affect the collection of
 3-12 information as required by a policy under Subsection (b)(6).

3-13 (f) On the commencement of an investigation by a law
 3-14 enforcement agency of a complaint described by Subsection (b)(3) in
 3-15 which a video or audio recording of the occurrence on which the
 3-16 complaint is based was made, the agency shall promptly provide a
 3-17 copy of the recording to the peace officer who is the subject of
 3-18 the complaint on written request by the officer.

3-19 Art. 2.133. REPORTS REQUIRED FOR TRAFFIC AND PEDESTRIAN
 3-20 STOPS. (a) In this article:

3-21 (1) "Race or ethnicity" has the meaning assigned by
 3-22 Article 2.132(a).

3-23 (2) "Pedestrian stop" means an interaction between a
 3-24 peace officer and an individual who is being detained for the
 3-25 purpose of a criminal investigation in which the individual is not
 3-26 under arrest.

4-1 (b) A peace officer who stops a motor vehicle for an alleged
 4-2 violation of a law or ordinance regulating traffic or who stops a
 4-3 pedestrian for any suspected offense shall report to the law
 4-4 enforcement agency that employs the officer information relating to
 4-5 the stop, including:

4-6 (1) a physical description of each person detained as
 4-7 a result of the stop, including:

4-8 (A) the person's gender; and

4-9 (B) the person's race or ethnicity, as stated by
 4-10 the person or, if the person does not state the person's race or
 4-11 ethnicity, as determined by the officer to the best of the
 4-12 officer's ability;

4-13 (2) the traffic law or ordinance alleged to have been
 4-14 violated or the suspected offense;

4-15 (3) whether the officer conducted a search as a result
 4-16 of the stop and, if so, whether the person detained consented to
 4-17 the search;

4-18 (4) whether any contraband was discovered in the
 4-19 course of the search and the type of contraband discovered;

4-20 (5) whether probable cause to search existed and the
 4-21 facts supporting the existence of that probable cause;

4-22 (6) whether the officer made an arrest as a result of
 4-23 the stop or the search, including a statement of the offense
 4-24 charged;

4-25 (7) the street address or approximate location of the
 4-26 stop; and

5-1 (8) whether the officer issued a warning or a citation
 5-2 as a result of the stop, including a description of the warning or
 5-3 a statement of the violation charged.

5-4 Art. 2.134. COMPILATION AND ANALYSIS OF INFORMATION

5-5 COLLECTED. (a) In this article, "pedestrian stop" means an
 5-6 interaction between a peace officer and an individual who is being
 5-7 detained for the purpose of a criminal investigation in which the
 5-8 individual is not under arrest.

5-9 (b) A law enforcement agency shall compile and analyze the
 5-10 information contained in each report received by the agency under
 5-11 Article 2.133. Not later than March 1 of each year, each local law
 5-12 enforcement agency shall submit a report containing the information
 5-13 compiled during the previous calendar year to the governing body of
 5-14 each county or municipality served by the agency in a manner
 5-15 approved by the agency.

5-16 (c) A report required under Subsection (b) must include:

5-17 (1) a comparative analysis of the information compiled

5-18 under Article 2.133 to:
5-19 (A) determine the prevalence of racial profiling
5-20 by peace officers employed by the agency; and
5-21 (B) examine the disposition of traffic and
5-22 pedestrian stops made by officers employed by the agency, including
5-23 searches resulting from the stops; and
5-24 (2) information relating to each complaint filed with
5-25 the agency alleging that a peace officer employed by the agency has
5-26 engaged in racial profiling.
6-1 (d) A report required under Subsection (b) may not include
6-2 identifying information about a peace officer who makes a traffic
6-3 or pedestrian stop or about an individual who is stopped or
6-4 arrested by a peace officer. This subsection does not affect the
6-5 reporting of information required under Article 2.133(b)(1).
6-6 (e) The Commission on Law Enforcement Officer Standards and
6-7 Education shall develop guidelines for compiling and reporting
6-8 information as required by this article.
6-9 (f) The data collected as a result of the reporting
6-10 requirements of this article shall not constitute prima facie
6-11 evidence of racial profiling.
6-12 Art. 2.135. EXEMPTION FOR AGENCIES USING VIDEO AND AUDIO
6-13 EQUIPMENT. (a) A peace officer is exempt from the reporting
6-14 requirement under Article 2.133 and a law enforcement agency is
6-15 exempt from the compilation, analysis, and reporting requirements
6-16 under Article 2.134 if:
6-17 (1) during the calendar year preceding the date that a
6-18 report under Article 2.134 is required to be submitted:
6-19 (A) each law enforcement motor vehicle regularly
6-20 used by an officer employed by the agency to make traffic and
6-21 pedestrian stops is equipped with video camera and
6-22 transmitter-activated equipment and each law enforcement motorcycle
6-23 regularly used to make traffic and pedestrian stops is equipped
6-24 with transmitter-activated equipment; and
6-25 (B) each traffic and pedestrian stop made by an
6-26 officer employed by the agency that is capable of being recorded by
7-1 video and audio or audio equipment, as appropriate, is recorded by
7-2 using the equipment; or
7-3 (2) the governing body of the county or municipality
7-4 served by the law enforcement agency, in conjunction with the law
7-5 enforcement agency, certifies to the Department of Public Safety,
7-6 not later than the date specified by rule by the department, that
7-7 the law enforcement agency needs funds or video and audio equipment
7-8 for the purpose of installing video and audio equipment as
7-9 described by Subsection (a)(1)(A) and the agency does not receive
7-10 from the state funds or video and audio equipment sufficient, as
7-11 determined by the department, for the agency to accomplish that
7-12 purpose.
7-13 (b) Except as otherwise provided by this subsection, a law
7-14 enforcement agency that is exempt from the requirements under
7-15 Article 2.134 shall retain the video and audio or audio
7-16 documentation of each traffic and pedestrian stop for at least 90
7-17 days after the date of the stop. If a complaint is filed with the
7-18 law enforcement agency alleging that a peace officer employed by
7-19 the agency has engaged in racial profiling with respect to a
7-20 traffic or pedestrian stop, the agency shall retain the video and
7-21 audio or audio record of the stop until final disposition of the
7-22 complaint.
7-23 (c) This article does not affect the collection or reporting
7-24 requirements under Article 2.132.
7-25 Art. 2.136. LIABILITY. A peace officer is not liable for

7-26 damages arising from an act relating to the collection or reporting
 8-1 of information as required by Article 2.133 or under a policy
 8-2 adopted under Article 2.132.

8-3 Art. 2.137. PROVISION OF FUNDING OR EQUIPMENT. (a) The
 8-4 Department of Public Safety shall adopt rules for providing funds
 8-5 or video and audio equipment to law enforcement agencies for the
 8-6 purpose of installing video and audio equipment as described by
 8-7 Article 2.135(a)(1)(A), including specifying criteria to prioritize
 8-8 funding or equipment provided to law enforcement agencies. The
 8-9 criteria may include consideration of tax effort, financial
 8-10 hardship, available revenue, and budget surpluses. The criteria
 8-11 must give priority to:

8-12 (1) law enforcement agencies that employ peace
 8-13 officers whose primary duty is traffic enforcement;

8-14 (2) smaller jurisdictions; and

8-15 (3) municipal and county law enforcement agencies.

8-16 (b) The Department of Public Safety shall collaborate with
 8-17 an institution of higher education to identify law enforcement
 8-18 agencies that need funds or video and audio equipment for the
 8-19 purpose of installing video and audio equipment as described by
 8-20 Article 2.135(a)(1)(A). The collaboration may include the use of a
 8-21 survey to assist in developing criteria to prioritize funding or
 8-22 equipment provided to law enforcement agencies.

8-23 (c) To receive funds or video and audio equipment from the
 8-24 state for the purpose of installing video and audio equipment as
 8-25 described by Article 2.135(a)(1)(A), the governing body of a county
 8-26 or municipality, in conjunction with the law enforcement agency
 9-1 serving the county or municipality, shall certify to the Department
 9-2 of Public Safety that the law enforcement agency needs funds or
 9-3 video and audio equipment for that purpose.

9-4 (d) On receipt of funds or video and audio equipment from
 9-5 the state for the purpose of installing video and audio equipment
 9-6 as described by Article 2.135(a)(1)(A), the governing body of a
 9-7 county or municipality, in conjunction with the law enforcement
 9-8 agency serving the county or municipality, shall certify to the
 9-9 Department of Public Safety that the law enforcement agency has
 9-10 installed video and audio equipment as described by Article
 9-11 2.135(a)(1)(A) and is using the equipment as required by Article
 9-12 2.135(a)(1).

9-13 Art. 2.138. RULES. The Department of Public Safety may
 9-14 adopt rules to implement Articles 2.131-2.137.

9-15 SECTION 2. Chapter 3, Code of Criminal Procedure, is amended
 9-16 by adding Article 3.05 to read as follows:

9-17 Art. 3.05. RACIAL PROFILING. In this code, "racial
 9-18 profiling" means a law enforcement-initiated action based on an
 9-19 individual's race, ethnicity, or national origin rather than on the
 9-20 individual's behavior or on information identifying the individual
 9-21 as having engaged in criminal activity.

9-22 SECTION 3. Section 96.641, Education Code, is amended by
 9-23 adding Subsection (j) to read as follows:

9-24 (j) As part of the initial training and continuing education
 9-25 for police chiefs required under this section, the institute shall
 9-26 establish a program on racial profiling. The program must include
 10-1 an examination of the best practices for:

10-2 (1) monitoring peace officers' compliance with laws
 10-3 and internal agency policies relating to racial profiling;

10-4 (2) implementing laws and internal agency policies
 10-5 relating to preventing racial profiling; and

10-6 (3) analyzing and reporting collected information.

10-7 SECTION 4. Section 1701.253, Occupations Code, is amended by

10-8 adding Subsection (e) to read as follows:

10-9 (e) As part of the minimum curriculum requirements, the
 10-10 commission shall establish a statewide comprehensive education and
 10-11 training program on racial profiling for officers licensed under
 10-12 this chapter. An officer shall complete a program established
 10-13 under this subsection not later than the second anniversary of the
 10-14 date the officer is licensed under this chapter or the date the
 10-15 officer applies for an intermediate proficiency certificate,
 10-16 whichever date is earlier.

10-17 SECTION 5. Section 1701.402, Occupations Code, is amended by
 10-18 adding Subsection (d) to read as follows:

10-19 (d) As a requirement for an intermediate proficiency
 10-20 certificate, an officer must complete an education and training
 10-21 program on racial profiling established by the commission under
 10-22 Section 1701.253(e).

10-23 SECTION 6. Section 543.202, Transportation Code, is amended
 10-24 to read as follows:

10-25 Sec. 543.202. FORM OF RECORD. (a) In this section, "race
 10-26 or ethnicity" means of a particular descent, including Caucasian,
 11-1 African, Hispanic, Asian, or Native American descent.

11-2 (b) The record must be made on a form or by a data
 11-3 processing method acceptable to the department and must include:

11-4 (1) the name, address, physical description, including
 11-5 race or ethnicity, date of birth, and driver's license number of
 11-6 the person charged;

11-7 (2) the registration number of the vehicle involved;

11-8 (3) whether the vehicle was a commercial motor vehicle
 11-9 as defined by Chapter 522 or was involved in transporting hazardous
 11-10 materials;

11-11 (4) the person's social security number, if the person
 11-12 was operating a commercial motor vehicle or was the holder of a
 11-13 commercial driver's license or commercial driver learner's permit;

11-14 (5) the date and nature of the offense, including
 11-15 whether the offense was a serious traffic violation as defined by
 11-16 Chapter 522;

11-17 (6) whether a search of the vehicle was conducted and
 11-18 whether consent for the search was obtained;

11-19 (7) the plea, the judgment, and whether bail was
 11-20 forfeited;

11-21 (8) [~~7~~] the date of conviction; and

11-22 (9) [~~8~~] the amount of the fine or forfeiture.

11-23 SECTION 7. Not later than January 1, 2002, a law enforcement
 11-24 agency shall adopt and implement a policy and begin collecting
 11-25 information under the policy as required by Article 2.132, Code of
 11-26 Criminal Procedure, as added by this Act. A local law enforcement
 12-1 agency shall first submit information to the governing body of each
 12-2 county or municipality served by the agency as required by Article
 12-3 2.132, Code of Criminal Procedure, as added by this Act, on March
 12-4 1, 2003. The first submission of information shall consist of
 12-5 information compiled by the agency during the period beginning
 12-6 January 1, 2002, and ending December 31, 2002.

12-7 SECTION 8. A local law enforcement agency shall first submit
 12-8 information to the governing body of each county or municipality
 12-9 served by the agency as required by Article 2.134, Code of Criminal
 12-10 Procedure, as added by this Act, on March 1, 2004. The first
 12-11 submission of information shall consist of information compiled by
 12-12 the agency during the period beginning January 1, 2003, and ending
 12-13 December 31, 2003.

12-14 SECTION 9. Not later than January 1, 2002:

12-15 (1) the Commission on Law Enforcement Officer

12-16 Standards and Education shall establish an education and training
 12-17 program on racial profiling as required by Subsection (e), Section
 12-18 1701.253, Occupations Code, as added by this Act; and
 12-19 (2) the Bill Blackwood Law Enforcement Management
 12-20 Institute of Texas shall establish a program on racial profiling as
 12-21 required by Subsection (j), Section 96.641, Education Code, as
 12-22 added by this Act.
 12-23 SECTION 10. A person who on the effective date of this Act
 12-24 holds an intermediate proficiency certificate issued by the
 12-25 Commission on Law Enforcement Officer Standards and Education or
 12-26 has held a peace officer license issued by the Commission on Law
 13-1 Enforcement Officer Standards and Education for at least two years
 13-2 shall complete an education and training program on racial
 13-3 profiling established under Subsection (e), Section 1701.253,
 13-4 Occupations Code, as added by this Act, not later than September 1,
 13-5 2003.
 13-6 SECTION 11. An individual appointed or elected as a police
 13-7 chief before the effective date of this Act shall complete a
 13-8 program on racial profiling established under Subsection (j),
 13-9 Section 96.641, Education Code, as added by this Act, not later
 13-10 than September 1, 2003.
 13-11 SECTION 12. This Act takes effect September 1, 2001.

S.B. No. 1074

 President of the Senate

 Speaker of the House

I hereby certify that S.B. No. 1074 passed the Senate on April 4, 2001, by the following vote: Yeas 28, Nays 2; May 21, 2001, Senate refused to concur in House amendments and requested appointment of Conference Committee; May 22, 2001, House granted request of the Senate; May 24, 2001, Senate adopted Conference Committee Report by a viva-voce vote.

 Secretary of the Senate

I hereby certify that S.B. No. 1074 passed the House, with amendments, on May 15, 2001, by a non-record vote; May 22, 2001, House granted request of the Senate for appointment of Conference Committee; May 24, 2001, House adopted Conference Committee Report by a non-record vote.

 Chief Clerk of the House

Approved:

 Date

 Governor