

BILL ANALYSIS

Senate Research Center
77R8381 JMC-F

S.B. 1074
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Criminal Justice
3/11/2001
As Filed

DIGEST AND PURPOSE

Currently, there is growing concern regarding the practice of racial profiling by law enforcement agencies. As proposed, 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

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

SECTION BY SECTION ANALYSIS

SECTION 1. Amends Chapter 2, Code of Criminal Procedure, by adding Articles 2.131 - 2.136, 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."

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

(d) Prohibits a report required under Subsection (b)(8) 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.

Art. 2.133. REPORTS REQUIRED FOR TRAFFIC AND PEDESTRIAN STOPS. 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)

Requires a law enforcement agency to compile and analyze the information contained in each report received by the agency under Article 2.133 and, not later than March 1 of each year, 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.

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

(c) 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.

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

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 if, during the calendar year preceding the date that a report under Article 2.134 is required to be submitted, certain specific criteria are met.

(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.

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.

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 1701.253, Occupation 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 4. 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 5. Amends Section 543.202, Transportation Code, to set forth information required to be included in the report.

SECTION 6. 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 7. 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 8. Requires the education and training program on racial profiling as required by Section 1701.253(e), Occupations Code, as added by this Act, to be established by January 1, 2002.

SECTION 9. 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 10. Effective date: September 1, 2001.