

1 AN ACT

2 relating to the continuation and functions of the Texas Commission
3 on Law Enforcement Officer Standards and Education; providing civil
4 and administrative penalties.

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

6 SECTION 1. Section 1701.002, Occupations Code, is amended
7 to read as follows:

8 Sec. 1701.002. APPLICATION OF SUNSET ACT. The Commission
9 on Law Enforcement Officer Standards and Education is subject to
10 Chapter 325, Government Code (Texas Sunset Act). Unless continued
11 in existence as provided by that chapter, the commission is
12 abolished and this chapter expires September 1, 2021 [~~2009~~].

13 SECTION 2. Section 1701.053, Occupations Code, is amended
14 to read as follows:

15 Sec. 1701.053. MEMBERSHIP AND EMPLOYEE RESTRICTIONS. (a)
16 In this section, "Texas trade association" means a [~~nonprofit,~~
17 cooperative[~~7~~] and voluntarily joined statewide association of
18 business or professional competitors in this state designed to
19 assist its members and its industry or profession in dealing with
20 mutual business or professional problems and in promoting their
21 common interest.

22 (b) A person [~~An officer, employee, or paid consultant of a~~
23 ~~Texas trade association in the field of law enforcement]~~ may not be
24 a commission member and may not be an employee of the commission

1 employed in a "bona fide executive, administrative, or professional
2 capacity," as that phrase is used for purposes of establishing an
3 exemption to the overtime provisions of the federal Fair Labor
4 Standards Act of 1938 (29 U.S.C. Section 201 et seq.), if:

5 (1) the person is an officer, employee, or paid
6 consultant of a Texas trade association in the field of law
7 enforcement or county corrections; or

8 (2) the person's spouse is an officer, manager, or paid
9 consultant of a Texas trade association in the field of law
10 enforcement or county corrections [~~who is exempt from the state's~~
11 ~~position classification plan or is compensated at or above the~~
12 ~~amount prescribed by the General Appropriations Act for step 1,~~
13 ~~salary group A17, of the position classification salary schedule].~~

14 ~~(c) [A person who is the spouse of an officer, manager, or~~
15 ~~paid consultant of a Texas trade association in the field of law~~
16 ~~enforcement may not be a commission member and may not be an~~
17 ~~employee of the commission who is exempt from the state's position~~
18 ~~classification plan or is compensated at or above the amount~~
19 ~~prescribed by the General Appropriations Act for step 1, salary~~
20 ~~group A17, of the position classification salary schedule.~~

21 ~~[(d)]~~ A person may not be [~~serve as~~] a member of the
22 commission or act as the general counsel to the commission or the
23 agency if the person is required to register as a lobbyist under
24 Chapter 305, Government Code, because of the person's activities
25 for compensation on behalf of a profession related to the
26 commission's operation.

27 SECTION 3. Section 1701.056(a), Occupations Code, is

1 amended to read as follows:

2 (a) It is a ground for removal from the commission that a
3 member:

4 (1) does not have at the time of taking office
5 ~~[appointment]~~ the qualifications required by Section 1701.051(a)
6 or 1701.052;

7 (2) does not maintain during service on the commission
8 the qualifications required by Section 1701.051(a) or 1701.052;

9 (3) is ineligible for membership under ~~[violates a~~
10 ~~prohibition established by]~~ Section 1701.053;

11 (4) cannot, because of illness or disability,
12 discharge the member's duties for a substantial part of the member's
13 term; or

14 (5) is absent from more than half of the regularly
15 scheduled commission meetings that the member is eligible to attend
16 during a calendar year without an excuse approved by a majority vote
17 of the commission.

18 SECTION 4. Section 1701.059, Occupations Code, is amended
19 to read as follows:

20 Sec. 1701.059. TRAINING. (a) A ~~[To be eligible to take~~
21 ~~office as a member of the commission, a]~~ person who is appointed to
22 and qualifies for office as a member of the commission may not vote,
23 deliberate, or be counted as a member in attendance at a meeting of
24 the commission until the person completes ~~[must complete at least~~
25 ~~one course of]~~ a training program that complies with this section.

26 (b) The training program must ~~[shall]~~ provide the person
27 with information ~~[to a member]~~ regarding:

1 (1) the legislation that created the commission;

2 (2) the programs, functions, rules, and budget of the
3 commission [~~this chapter~~];

4 (3) [~~(2)~~] the results of the most recent formal audit
5 of [~~programs operated by~~] the commission;

6 (4) [~~(3)~~] the requirements of laws relating to open
7 meetings, public information, administrative procedure, and
8 conflicts of interest [~~role and functions of the commission~~]; and

9 [~~(4) the rules of the commission, with an emphasis on~~
10 ~~the rules that relate to disciplinary and investigatory authority,~~]

11 (5) [~~the current budget for the commission,~~

12 [~~(6) the results of the most recent formal audit of the~~
13 ~~commission,~~

14 [~~(7) the requirements of Chapters 551, 552, and 2001,~~
15 ~~Government Code,~~

16 [~~(8) the requirements of the conflict of interest laws~~
17 ~~and other laws relating to public officials,~~ and

18 [~~(9)~~] any applicable ethics policies adopted by the
19 commission or the Texas Ethics Commission.

20 (c) A person appointed to the commission is entitled to
21 reimbursement, as provided by the General Appropriations Act, for
22 travel expenses incurred in attending the training program
23 regardless of whether the attendance at the program occurs before
24 or after the person qualifies for office[~~, as provided by the~~
25 ~~General Appropriations Act, as if the person were a member of the~~
26 ~~commission~~].

27 SECTION 5. Section 1701.153(b), Occupations Code, is

1 amended to read as follows:

2 (b) The commission shall furnish each agency and licensed
3 training school with the required reporting forms, including access
4 to electronic submission forms when the system under Section
5 1701.1523 is established.

6 SECTION 6. Sections 1701.157(b) and (c), Occupations Code,
7 are amended to read as follows:

8 (b) To provide the necessary information for an allocation
9 of money under Subsection (a), a [~~Not later than November 1 of each~~
10 ~~calendar year, each~~] local law enforcement agency must [~~shall~~]
11 report to the comptroller not later than November 1 of the preceding
12 calendar year:

13 (1) the number of agency positions described by
14 Subsection (a)(2) authorized as of January 1 of the [~~that~~] year the
15 report is due;

16 (2) the number of agency positions described by
17 Subsection (a)(2) filled as of January 1 of the year the report is
18 due;

19 (3) the percentage of the money received by the agency
20 under Subsection (a) pursuant to the allocation made by the
21 comptroller on or before March 1 of the year preceding the year in
22 which the report is due that was used by the agency before the date
23 of the allocation made by the comptroller under Subsection (a) on or
24 before March 1 of the year the report is due;

25 (4) the number of training hours received during the
26 12-month or approximately 12-month period described by Subdivision
27 (3) that were funded by money received by the agency pursuant to the

1 allocation made by the comptroller on or before March 1 of the year
2 preceding the year in which the report is due; and

3 (5) that the agency has complied with the requirements
4 of this section regarding the use of any money received by the
5 agency pursuant to the allocation made by the comptroller on or
6 before March 1 of the year preceding the year in which the report is
7 due.

8 (c) The head of a law enforcement agency shall maintain a
9 complete and detailed [~~written~~] record of money received and spent
10 by the agency under this section. Money received under this section
11 is subject to audit by the comptroller. Money spent under this
12 section is subject to audit by the state auditor.

13 SECTION 7. Subchapter D, Chapter 1701, Occupations Code, is
14 amended by adding Sections 1701.1521, 1701.1522, 1701.1523,
15 1701.1524, 1701.162, and 1701.163 to read as follows:

16 Sec. 1701.1521. USE OF TECHNOLOGY. The commission shall
17 implement a policy requiring the commission to use appropriate
18 technological solutions to improve the commission's ability to
19 perform its functions. The policy must ensure that the public is
20 able to interact with the commission on the Internet.

21 Sec. 1701.1522. ALTERNATIVE DISPUTE RESOLUTION. (a) The
22 commission shall develop and implement a policy to encourage the
23 use of:

24 (1) negotiated rulemaking procedures under Chapter
25 2008, Government Code, for the adoption of commission rules; and

26 (2) appropriate alternative dispute resolution
27 procedures under Chapter 2009, Government Code, to assist in the

1 resolution of internal and external disputes under the commission's
2 jurisdiction.

3 (b) The commission's procedures relating to alternative
4 dispute resolution must conform, to the extent possible, to any
5 model guidelines issued by the State Office of Administrative
6 Hearings for the use of alternative dispute resolution by state
7 agencies.

8 (c) The commission shall designate a trained person to:

9 (1) coordinate the implementation of the policy
10 adopted under Subsection (a);

11 (2) serve as a resource for any training needed to
12 implement the procedures for negotiated rulemaking or alternative
13 dispute resolution; and

14 (3) collect data concerning the effectiveness of those
15 procedures, as implemented by the commission.

16 Sec. 1701.1523. ELECTRONIC SUBMISSION OF FORMS, DATA, AND
17 DOCUMENTS. The commission by rule shall:

18 (1) develop and establish a system for the electronic
19 submission of forms, data, and documents required to be submitted
20 to the commission under this chapter; and

21 (2) once that system is established, require law
22 enforcement agencies to submit to the commission electronically any
23 form, data, or document required to be submitted to the commission
24 under this chapter.

25 Sec. 1701.1524. RULES RELATING TO CONSEQUENCES OF CRIMINAL
26 CONVICTION OR DEFERRED ADJUDICATION. (a) The commission by rule
27 shall establish guidelines consistent with this chapter that are

1 necessary to comply with Chapter 53 to the extent that chapter
2 applies to persons licensed under this chapter.

3 (b) In its rules under this section, the commission shall
4 list the offenses for which a conviction would constitute grounds
5 for the commission to take action under Section 53.021 or for which
6 placement on deferred adjudication community supervision would
7 constitute grounds for the commission to take action under this
8 chapter.

9 Sec. 1701.162. RECORDS AND AUDIT REQUIREMENTS. (a) The
10 commission is entitled to access records maintained under Sections
11 1701.303, 1701.306, and 1701.310 by an agency hiring a person to be
12 an officer or county jailer, including records that relate to age,
13 education, physical standards, citizenship, experience, and other
14 matters relating to competence and reliability, as evidence of
15 qualification for licensing of an officer or county jailer.

16 (b) The commission shall audit the records described by
17 Subsection (a) of each law enforcement agency at least once every
18 five years.

19 (c) The commission by rule shall develop and establish a
20 framework for the audits conducted by the commission under
21 Subsection (b) that:

22 (1) addresses the types of documents subject to audit;
23 (2) provides a schedule for additional risk-based
24 inspections based on:

25 (A) whether there has been a prior violation by
26 the law enforcement agency;

27 (B) the inspection history of the agency; and

1 (C) any other factor the commission by rule
2 considers appropriate;

3 (3) provides timelines for complying with an audit
4 request or correcting a violation found during the audit process;
5 and

6 (4) establishes sanctions for failing to comply with
7 an audit request or to correct a violation found during the audit
8 process.

9 Sec. 1701.163. INFORMATION PROVIDED BY COMMISSIONING
10 ENTITIES. (a) This section applies only to an entity authorized by
11 statute or by the constitution to create a law enforcement agency or
12 police department and commission, appoint, or employ officers that
13 first creates a law enforcement agency or police department and
14 first begins to commission, appoint, or employ officers on or after
15 September 1, 2009.

16 (b) The entity shall submit to the commission on creation of
17 the law enforcement agency or police department information
18 regarding:

19 (1) the need for the law enforcement agency or police
20 department in the community;

21 (2) the funding sources for the law enforcement agency
22 or police department;

23 (3) the physical resources available to officers;

24 (4) the physical facilities that the law enforcement
25 agency or police department will operate, including descriptions of
26 the evidence room, dispatch area, and public area;

27 (5) law enforcement policies of the law enforcement

1 agency or police department, including policies on:

2 (A) use of force;

3 (B) vehicle pursuit;

4 (C) professional conduct of officers;

5 (D) domestic abuse protocols;

6 (E) response to missing persons;

7 (F) supervision of part-time officers; and

8 (G) impartial policing;

9 (6) the administrative structure of the law
10 enforcement agency or police department;

11 (7) liability insurance; and

12 (8) any other information the commission requires by
13 rule.

14 SECTION 8. Subchapter D, Chapter 1701, Occupations Code, is
15 amended by adding Section 1701.164 to read as follows:

16 Sec. 1701.164. COLLECTION OF CERTAIN INCIDENT-BASED DATA
17 SUBMITTED BY LAW ENFORCEMENT AGENCIES. The commission shall
18 collect and maintain incident-based data submitted to the
19 commission under Article 2.134, Code of Criminal Procedure,
20 including incident-based data compiled by a law enforcement agency
21 from reports received by the law enforcement agency under Article
22 2.133 of that code. The commission in consultation with the
23 Department of Public Safety, the Bill Blackwood Law Enforcement
24 Management Institute of Texas, the W. W. Caruth, Jr., Police
25 Institute at Dallas, and the Texas Police Chiefs Association shall
26 develop guidelines for submitting in a standard format the report
27 containing incident-based data as required by Article 2.134, Code

1 of Criminal Procedure.

2 SECTION 9. Section 1701.202, Occupations Code, is amended
3 to read as follows:

4 Sec. 1701.202. COMPLAINTS. (a) The commission by rule
5 shall establish a comprehensive procedure for each phase of the
6 commission's jurisdictional complaint enforcement process,
7 including:

- 8 (1) complaint intake;
- 9 (2) investigation;
- 10 (3) adjudication and relevant hearings;
- 11 (4) appeals;
- 12 (5) the imposition of sanctions; and
- 13 (6) public disclosure.

14 (b) On request, a license holder may obtain information
15 regarding a complaint made against the license holder under this
16 chapter, including a complete copy of the complaint file. On
17 receipt of a request under this subsection, the commission shall
18 provide the requested information in a timely manner to allow the
19 license holder time to respond to the complaint.

20 (c) The commission shall ensure that detailed information
21 regarding the commission's complaint enforcement process described
22 by this section is available on any publicly accessible Internet
23 website and in any appropriate printed materials maintained by the
24 commission [~~provide the commission's policies and procedures~~
25 ~~relating to complaint investigation and resolution to a person~~
26 ~~filing a complaint and to each person that is the subject of the~~
27 ~~complaint~~].

1 SECTION 10. Section 1701.203, Occupations Code, is amended
2 to read as follows:

3 Sec. 1701.203. RECORDS OF COMPLAINTS. (a) The commission
4 shall maintain a system to promptly and efficiently act on
5 jurisdictional complaints filed with the commission. The
6 commission shall maintain [~~keep an~~] information [~~file~~] about
7 parties to the complaint, [~~each written complaint filed with the~~
8 ~~commission that the commission has authority to resolve.~~ The
9 ~~information file must include:~~

- 10 [~~(1) the date the complaint is received,~~
11 [~~(2) the name of the complainant,~~
12 [~~(3)] the subject matter of the complaint,~~ [~~+~~
13 [~~(4) a record of each person contacted in relation to~~
14 ~~the complaint,~~
15 [~~(5)] a summary of the results of the review or~~
16 ~~investigation of the complaint,~~ and its disposition [~~+~~ and
17 [~~(6) an explanation of the reason that a complaint was~~
18 ~~closed without action by the commission].~~

19 (b) The commission shall make information available
20 describing its procedures for complaint investigation and
21 resolution.

22 (c) The commission [~~+~~ at least quarterly and until final
23 disposition of the complaint,] shall periodically notify the
24 parties to the complaint of the status of the complaint until final
25 disposition [~~unless the notice would jeopardize an undercover~~
26 ~~investigation].~~

27 SECTION 11. Subchapter E, Chapter 1701, Occupations Code,

1 is amended by adding Section 1701.2035 to read as follows:

2 Sec. 1701.2035. TRACKING AND ANALYSIS OF COMPLAINT AND
3 VIOLATION DATA. (a) The commission shall develop and implement a
4 method for:

5 (1) tracking complaints filed with the commission
6 through their final disposition, including:

7 (A) the reason for each complaint;

8 (B) how each complaint was resolved; and

9 (C) the subject matter of each complaint that was
10 not within the jurisdiction of the commission and how the
11 commission responded to the complaint; and

12 (2) tracking and categorizing the sources and types of
13 complaints filed with the commission and of violations of this
14 chapter or a rule adopted under this chapter.

15 (b) The commission shall analyze the complaint and
16 violation data maintained under Subsection (a) to identify trends
17 and areas that may require additional regulation or enforcement.

18 SECTION 12. Section 1701.253, Occupations Code, is amended
19 by adding Subsection (k) to read as follows:

20 (k) As part of the minimum curriculum requirements, the
21 commission shall establish a statewide comprehensive education and
22 training program for officers licensed under this chapter that
23 covers the laws of this state and of the United States pertaining to
24 peace officers.

25 SECTION 13. Section 1701.254, Occupations Code, is amended
26 by adding Subsection (d) to read as follows:

27 (d) The commission by rule shall establish a system for

1 placing a training provider on at-risk probationary status. The
2 rules must prescribe:

3 (1) the criteria to be used by the commission in
4 determining whether to place a training provider on at-risk
5 probationary status;

6 (2) a procedure and timeline for imposing corrective
7 conditions on a training provider placed on at-risk probationary
8 status and for notifying the provider regarding those conditions;
9 and

10 (3) a procedure for tracking a training provider's
11 progress toward compliance with any corrective conditions imposed
12 on the provider by the commission under this subsection.

13 SECTION 14. Section 1701.255(c), Occupations Code, is
14 amended to read as follows:

15 (c) A person may not enroll in a peace officer training
16 program under Section 1701.251(a) unless the person has received:

17 (1) a high school diploma;

18 (2) a high school equivalency certificate [~~and has~~
19 ~~completed at least 12 hours at an institution of higher education~~
20 ~~with at least a 2.0 grade point average on a 4.0 scale]~~; or

21 (3) an honorable discharge from the armed forces of
22 the United States after at least 24 months of active duty service.

23 SECTION 15. Section 1701.351, Occupations Code, is amended
24 by adding Subsection (a-1) to read as follows:

25 (a-1) As part of the continuing education programs under
26 Subsection (a), a peace officer must complete a training and
27 education program that covers recent changes to the laws of this

1 state and of the United States pertaining to peace officers.

2 SECTION 16. Section 1701.352, Occupations Code, is amended
3 by amending Subsection (b) and adding Subsection (g) to read as
4 follows:

5 (b) The commission shall require a state, county, special
6 district, or municipal agency that appoints or employs peace
7 officers to provide each peace officer with a training program at
8 least once every 48 months that is approved by the commission and
9 consists of:

10 (1) topics selected by the agency; and

11 (2) for an officer holding only a basic proficiency
12 certificate, not more than 20 hours of education and training that
13 contain curricula incorporating the learning objectives developed
14 by the commission regarding:

15 (A) civil rights, racial sensitivity, and
16 cultural diversity; ~~and~~

17 (B) de-escalation and crisis intervention
18 techniques to facilitate interaction with persons with mental
19 impairments; and

20 (C) unless determined by the agency head to be
21 inconsistent with the officer's assigned duties:

22 (i) the recognition and documentation of
23 cases that involve child abuse or neglect, family violence, and
24 sexual assault; and

25 (ii) issues concerning sex offender
26 characteristics.

27 (g) The training and education program on de-escalation and

1 crisis intervention techniques to facilitate interaction with
2 persons with mental impairments under Subsection (b)(2)(B) may not
3 be provided as an online course. The commission shall:

4 (1) determine best practices for interacting with
5 persons with mental impairments, in consultation with the Bill
6 Blackwood Law Enforcement Management Institute of Texas; and

7 (2) review the education and training program under
8 Subsection (b)(2)(B) at least once every 24 months.

9 SECTION 17. Section 1701.402, Occupations Code, is amended
10 by adding Subsections (h) and (i) to read as follows:

11 (h) As a requirement for an intermediate proficiency
12 certificate, an officer must complete an education and training
13 program on investigative topics established by the commission under
14 Section 1701.253(b).

15 (i) As a requirement for an intermediate proficiency
16 certificate, an officer must complete an education and training
17 program on civil rights, racial sensitivity, and cultural diversity
18 established by the commission under Section 1701.253(c).

19 SECTION 18. Section 1701.355(a), Occupations Code, is
20 amended to read as follows:

21 (a) An agency that employs one or more [~~at least two~~] peace
22 officers shall designate a firearms proficiency officer and require
23 each peace officer the agency employs to demonstrate weapons
24 proficiency to the firearms proficiency officer at least annually.
25 The agency shall maintain records of the weapons proficiency of the
26 agency's peace officers.

27 SECTION 19. Sections 1701.451(a), (b), and (c), Occupations

1 Code, are amended to read as follows:

2 (a) Before a law enforcement agency may hire a person
3 licensed under this chapter, the agency head or the agency head's
4 designee must:

5 (1) make a [~~written~~] request to the commission for any
6 employment termination report regarding the person that is
7 maintained by the commission under this subchapter; and

8 (2) submit to the commission on the form prescribed by
9 the commission confirmation that the agency:

10 (A) conducted in the manner prescribed by the
11 commission a criminal background check regarding the person;

12 (B) obtained the person's written consent on a
13 form prescribed by the commission for the agency to view the
14 person's employment records;

15 (C) obtained from the commission any service or
16 education records regarding the person maintained by the
17 commission; and

18 (D) contacted each of the person's previous law
19 enforcement employers.

20 (b) The commission by rule shall establish a system for
21 verifying an electronically submitted [~~The written~~] request
22 required by Subsection (a)(1) [~~must be on the agency's letterhead~~
23 ~~and be signed by the agency head or the agency head's designee~~].

24 (c) If the commission receives from a law enforcement agency
25 a [~~written~~] request that complies with Subsections (a)(1) and (b),
26 the commission employee having the responsibility to maintain any
27 employment termination report regarding the person who is the

1 subject of the request shall release the report to the agency.

2 SECTION 20. Section 1701.4525, Occupations Code, is amended
3 by adding Subsection (g) to read as follows:

4 (g) The commission is not considered a party in a proceeding
5 conducted by the State Office of Administrative Hearings under this
6 section.

7 SECTION 21. Section 1701.453, Occupations Code, is amended
8 to read as follows:

9 Sec. 1701.453. MAINTENANCE OF REPORTS AND STATEMENTS. The
10 commission shall maintain a copy of each report and [~~written~~]
11 statement submitted to the commission under this subchapter until
12 at least the 10th anniversary of the date on which the report or
13 statement is submitted.

14 SECTION 22. Section 1701.501(a), Occupations Code, is
15 amended to read as follows:

16 (a) Except as provided by Subsection (d), the commission
17 shall revoke or suspend a license, place on probation a person whose
18 license has been suspended, or reprimand a license holder for a
19 violation of:

20 (1) this chapter;

21 (2) the reporting requirements provided by Articles
22 2.132 and 2.134, Code of Criminal Procedure; or

23 (3) a commission rule.

24 SECTION 23. Subchapter K, Chapter 1701, Occupations Code,
25 is amended by adding Section 1701.507 to read as follows:

26 Sec. 1701.507. ADMINISTRATIVE PENALTIES. (a) In addition
27 to other penalties imposed by law, a law enforcement agency or

1 governmental entity that violates this chapter or a rule adopted
2 under this chapter is subject to an administrative penalty in an
3 amount set by the commission not to exceed \$1,000 per day per
4 violation. The administrative penalty shall be assessed in a
5 proceeding conducted in accordance with Chapter 2001, Government
6 Code.

7 (b) The amount of the penalty shall be based on:

8 (1) the seriousness of the violation;

9 (2) the respondent's history of violations;

10 (3) the amount necessary to deter future violations;

11 (4) efforts made by the respondent to correct the

12 violation; and

13 (5) any other matter that justice may require.

14 (c) The commission by rule shall establish a written
15 enforcement plan that provides notice of the specific ranges of
16 penalties that apply to specific alleged violations and the
17 criteria by which the commission determines the amount of a
18 proposed administrative penalty.

19 SECTION 24. Subchapter L, Chapter 1701, Occupations Code,
20 is amended by adding Section 1701.554 to read as follows:

21 Sec. 1701.554. VENUE. Venue for the prosecution of an
22 offense that arises from a violation of this chapter or in
23 connection with the administration of this chapter lies in the
24 county where the offense occurred or in Travis County.

25 SECTION 25. Article 2.132, Code of Criminal Procedure, is
26 amended by amending Subsections (a), (b), (d), and (e) and adding
27 Subsection (g) to read as follows:

1 (a) In this article:

2 (1) "Law enforcement agency" means an agency of the
3 state, or of a county, municipality, or other political subdivision
4 of the state, that employs peace officers who make motor vehicle
5 [~~traffic~~] stops in the routine performance of the officers'
6 official duties.

7 (2) "Motor vehicle stop" means an occasion in which a
8 peace officer stops a motor vehicle for an alleged violation of a
9 law or ordinance.

10 (3) "Race or ethnicity" means of a particular descent,
11 including Caucasian, African, Hispanic, Asian, [~~or~~] Native
12 American, or Middle Eastern descent.

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

15 (1) clearly define acts constituting racial
16 profiling;

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

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

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

25 (5) require appropriate corrective action to be taken
26 against a peace officer employed by the agency who, after an
27 investigation, is shown to have engaged in racial profiling in

1 violation of the agency's policy adopted under this article;

2 (6) require collection of information relating to
3 motor vehicle [~~traffic~~] stops in which a citation is issued and to
4 arrests made as a result of [~~resulting from~~] those [~~traffic~~] stops,
5 including information relating to:

6 (A) the race or ethnicity of the individual
7 detained; [~~and~~]

8 (B) whether a search was conducted and, if so,
9 whether the individual [~~person~~] detained consented to the search;
10 and

11 (C) whether the peace officer knew the race or
12 ethnicity of the individual detained before detaining that
13 individual; and

14 (7) require the chief administrator of the agency,
15 regardless of whether the administrator is elected, employed, or
16 appointed, to submit [~~to the governing body of each county or~~
17 ~~municipality served by the agency~~] an annual report of the
18 information collected under Subdivision (6) to:

19 (A) the Commission on Law Enforcement Officer
20 Standards and Education; and

21 (B) the governing body of each county or
22 municipality served by the agency, if the agency is an agency of a
23 county, municipality, or other political subdivision of the state.

24 (d) On adoption of a policy under Subsection (b), a law
25 enforcement agency shall examine the feasibility of installing
26 video camera and transmitter-activated equipment in each agency law
27 enforcement motor vehicle regularly used to make motor vehicle

1 [~~traffic~~] stops and transmitter-activated equipment in each agency
2 law enforcement motorcycle regularly used to make motor vehicle
3 [~~traffic~~] stops. If a law enforcement agency installs video or
4 audio equipment as provided by this subsection, the policy adopted
5 by the agency under Subsection (b) must include standards for
6 reviewing video and audio documentation.

7 (e) A report required under Subsection (b)(7) may not
8 include identifying information about a peace officer who makes a
9 motor vehicle [~~traffic~~] stop or about an individual who is stopped
10 or arrested by a peace officer. This subsection does not affect the
11 collection of information as required by a policy under Subsection
12 (b)(6).

13 (g) On a finding by the Commission on Law Enforcement
14 Officer Standards and Education that the chief administrator of a
15 law enforcement agency intentionally failed to submit a report
16 required under Subsection (b)(7), the commission shall begin
17 disciplinary procedures against the chief administrator.

18 SECTION 26. Article 2.133, Code of Criminal Procedure, is
19 amended to read as follows:

20 Art. 2.133. REPORTS REQUIRED FOR MOTOR VEHICLE [~~TRAFFIC AND~~
21 ~~PEDESTRIAN~~] STOPS. (a) In this article, "race[+

22 [~~(1)~~ "~~Race~~] or ethnicity" has the meaning assigned by
23 Article 2.132(a).

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

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

6 (1) a physical description of any [~~each~~] person
7 operating the motor vehicle who is detained as a result of the stop,
8 including:

9 (A) the person's gender; and

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

14 (2) the initial reason for the stop [~~traffic law or~~
15 ~~ordinance alleged to have been violated or the suspected offense~~];

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

19 (4) whether any contraband or other evidence was
20 discovered in the course of the search and a description [~~the type~~]
21 of the contraband or evidence [~~discovered~~];

22 (5) the reason for the search, including whether:

23 (A) any contraband or other evidence was in plain
24 view;

25 (B) any probable cause or reasonable suspicion
26 existed to perform the search; or

27 (C) the search was performed as a result of the

1 towing of the motor vehicle or the arrest of any person in the motor
2 vehicle [~~existed and the facts supporting the existence of that~~
3 ~~probable cause~~];

4 (6) whether the officer made an arrest as a result of
5 the stop or the search, including a statement of whether the arrest
6 was based on a violation of the Penal Code, a violation of a traffic
7 law or ordinance, or an outstanding warrant and a statement of the
8 offense charged;

9 (7) the street address or approximate location of the
10 stop; and

11 (8) whether the officer issued a written warning or a
12 citation as a result of the stop[, ~~including a description of the~~
13 ~~warning or a statement of the violation charged~~].

14 SECTION 27. Article 2.134, Code of Criminal Procedure, is
15 amended by amending Subsections (a) through (e) and adding
16 Subsection (g) to read as follows:

17 (a) In this article:

18 (1) "Motor vehicle [~~"pedestrian]~~ stop" has the
19 meaning assigned by Article 2.132(a) [~~means an interaction between~~
20 ~~a peace officer and an individual who is being detained for the~~
21 ~~purpose of a criminal investigation in which the individual is not~~
22 ~~under arrest~~].

23 (2) "Race or ethnicity" has the meaning assigned by
24 Article 2.132(a).

25 (b) A law enforcement agency shall compile and analyze the
26 information contained in each report received by the agency under
27 Article 2.133. Not later than March 1 of each year, each [~~local]~~

1 law enforcement agency shall submit a report containing the
2 incident-based data [~~information~~] compiled during the previous
3 calendar year to the Commission on Law Enforcement Officer
4 Standards and Education and, if the law enforcement agency is a
5 local law enforcement agency, to the governing body of each county
6 or municipality served by the agency [~~in a manner approved by the~~
7 ~~agency~~].

8 (c) A report required under Subsection (b) must be submitted
9 by the chief administrator of the law enforcement agency,
10 regardless of whether the administrator is elected, employed, or
11 appointed, and must include:

12 (1) a comparative analysis of the information compiled
13 under Article 2.133 to:

14 (A) evaluate and compare the number of motor
15 vehicle stops, within the applicable jurisdiction, of persons who
16 are recognized as racial or ethnic minorities and persons who are
17 not recognized as racial or ethnic minorities [~~determine the~~
18 ~~prevalence of racial profiling by peace officers employed by the~~
19 ~~agency~~]; and

20 (B) examine the disposition of motor vehicle
21 [~~traffic and pedestrian~~] stops made by officers employed by the
22 agency, categorized according to the race or ethnicity of the
23 affected persons, as appropriate, including any searches resulting
24 from [~~the~~] stops within the applicable jurisdiction; and

25 (2) information relating to each complaint filed with
26 the agency alleging that a peace officer employed by the agency has
27 engaged in racial profiling.

1 (d) A report required under Subsection (b) may not include
2 identifying information about a peace officer who makes a motor
3 vehicle [~~traffic or pedestrian~~] stop or about an individual who is
4 stopped or arrested by a peace officer. This subsection does not
5 affect the reporting of information required under Article
6 2.133(b)(1).

7 (e) The Commission on Law Enforcement Officer Standards and
8 Education, in accordance with Section 1701.162, Occupations Code,
9 shall develop guidelines for compiling and reporting information as
10 required by this article.

11 (g) On a finding by the Commission on Law Enforcement
12 Officer Standards and Education that the chief administrator of a
13 law enforcement agency intentionally failed to submit a report
14 required under Subsection (b), the commission shall begin
15 disciplinary procedures against the chief administrator.

16 SECTION 28. Article 2.135, Code of Criminal Procedure, is
17 amended to read as follows:

18 Art. 2.135. PARTIAL EXEMPTION FOR AGENCIES USING VIDEO AND
19 AUDIO EQUIPMENT. (a) A peace officer is exempt from the reporting
20 requirement under Article 2.133 and the chief administrator of a
21 law enforcement agency, regardless of whether the administrator is
22 elected, employed, or appointed, is exempt from the compilation,
23 analysis, and reporting requirements under Article 2.134 if:

24 (1) during the calendar year preceding the date that a
25 report under Article 2.134 is required to be submitted:

26 (A) each law enforcement motor vehicle regularly
27 used by an officer employed by the agency to make motor vehicle

1 [~~traffic and pedestrian~~] stops is equipped with video camera and
2 transmitter-activated equipment and each law enforcement
3 motorcycle regularly used to make motor vehicle [~~traffic and~~
4 ~~pedestrian~~] stops is equipped with transmitter-activated
5 equipment; and

6 (B) each motor vehicle [~~traffic and pedestrian~~]
7 stop made by an officer employed by the agency that is capable of
8 being recorded by video and audio or audio equipment, as
9 appropriate, is recorded by using the equipment; or

10 (2) the governing body of the county or municipality
11 served by the law enforcement agency, in conjunction with the law
12 enforcement agency, certifies to the Department of Public Safety,
13 not later than the date specified by rule by the department, that
14 the law enforcement agency needs funds or video and audio equipment
15 for the purpose of installing video and audio equipment as
16 described by Subsection (a)(1)(A) and the agency does not receive
17 from the state funds or video and audio equipment sufficient, as
18 determined by the department, for the agency to accomplish that
19 purpose.

20 (b) Except as otherwise provided by this subsection, a law
21 enforcement agency that is exempt from the requirements under
22 Article 2.134 shall retain the video and audio or audio
23 documentation of each motor vehicle [~~traffic and pedestrian~~] stop
24 for at least 90 days after the date of the stop. If a complaint is
25 filed with the law enforcement agency alleging that a peace officer
26 employed by the agency has engaged in racial profiling with respect
27 to a motor vehicle [~~traffic or pedestrian~~] stop, the agency shall

1 retain the video and audio or audio record of the stop until final
2 disposition of the complaint.

3 (c) This article does not affect the collection or reporting
4 requirements under Article 2.132.

5 (d) In this article, "motor vehicle stop" has the meaning
6 assigned by Article 2.132(a).

7 SECTION 29. Chapter 2, Code of Criminal Procedure, is
8 amended by adding Article 2.1385 to read as follows:

9 Art. 2.1385. CIVIL PENALTY. (a) If the chief administrator
10 of a local law enforcement agency intentionally fails to submit the
11 incident-based data as required by Article 2.134, the agency is
12 liable to the state for a civil penalty in the amount of \$1,000 for
13 each violation. The attorney general may sue to collect a civil
14 penalty under this subsection.

15 (b) From money appropriated to the agency for the
16 administration of the agency, the executive director of a state law
17 enforcement agency that intentionally fails to submit the
18 incident-based data as required by Article 2.134 shall remit to the
19 comptroller the amount of \$1,000 for each violation.

20 (c) Money collected under this article shall be deposited in
21 the state treasury to the credit of the general revenue fund.

22 SECTION 30. Subchapter A, Chapter 102, Code of Criminal
23 Procedure, is amended by adding Article 102.022 to read as follows:

24 Art. 102.022. COSTS ON CONVICTION TO FUND STATEWIDE
25 REPOSITORY FOR DATA RELATED TO CIVIL JUSTICE. (a) In this article,
26 "moving violation" means an offense that:

27 (1) involves the operation of a motor vehicle; and

1 (2) is classified as a moving violation by the
2 Department of Public Safety under Section 708.052, Transportation
3 Code.

4 (b) A defendant convicted of a moving violation in a justice
5 court, county court, county court at law, or municipal court shall
6 pay a fee of 10 cents as a cost of court.

7 (c) In this article, a person is considered convicted if:

8 (1) a sentence is imposed on the person;

9 (2) the person receives community supervision,
10 including deferred adjudication; or

11 (3) the court defers final disposition of the person's
12 case.

13 (d) The clerks of the respective courts shall collect the
14 costs described by this article. The clerk shall keep separate
15 records of the funds collected as costs under this article and shall
16 deposit the funds in the county or municipal treasury, as
17 appropriate.

18 (e) The custodian of a county or municipal treasury shall:

19 (1) keep records of the amount of funds on deposit
20 collected under this article; and

21 (2) send to the comptroller before the last day of the
22 first month following each calendar quarter the funds collected
23 under this article during the preceding quarter.

24 (f) A county or municipality may retain 10 percent of the
25 funds collected under this article by an officer of the county or
26 municipality as a collection fee if the custodian of the county or
27 municipal treasury complies with Subsection (e).

1 (g) If no funds due as costs under this article are
2 deposited in a county or municipal treasury in a calendar quarter,
3 the custodian of the treasury shall file the report required for the
4 quarter in the regular manner and must state that no funds were
5 collected.

6 (h) The comptroller shall deposit the funds received under
7 this article to the credit of the Civil Justice Data Repository fund
8 in the general revenue fund, to be used only by the Commission on
9 Law Enforcement Officer Standards and Education to implement duties
10 under Section 1701.162, Occupations Code.

11 (i) Funds collected under this article are subject to audit
12 by the comptroller.

13 SECTION 31. (a) Section 102.061, Government Code, as
14 reenacted and amended by Chapter 921 (H.B. 3167), Acts of the 80th
15 Legislature, Regular Session, 2007, is amended to conform to the
16 amendments made to Section 102.061, Government Code, by Chapter
17 1053 (H.B. 2151), Acts of the 80th Legislature, Regular Session,
18 2007, and is further amended to read as follows:

19 Sec. 102.061. ADDITIONAL COURT COSTS ON CONVICTION IN
20 STATUTORY COUNTY COURT: CODE OF CRIMINAL PROCEDURE. The clerk of a
21 statutory county court shall collect fees and costs under the Code
22 of Criminal Procedure on conviction of a defendant as follows:

23 (1) a jury fee (Art. 102.004, Code of Criminal
24 Procedure) . . . \$20;

25 (2) a fee for services of the clerk of the court (Art.
26 102.005, Code of Criminal Procedure) . . . \$40;

27 (3) a records management and preservation services fee

1 (Art. 102.005, Code of Criminal Procedure) . . . \$25;

2 (4) a security fee on a misdemeanor offense (Art.
3 102.017, Code of Criminal Procedure) . . . \$3;

4 (5) a graffiti eradication fee (Art. 102.0171, Code of
5 Criminal Procedure) . . . \$5; ~~and~~

6 (6) a juvenile case manager fee (Art. 102.0174, Code
7 of Criminal Procedure) . . . not to exceed \$5; and

8 (7) a civil justice fee (Art. 102.022, Code of
9 Criminal Procedure) . . . \$0.10.

10 (b) Section 102.061, Government Code, as amended by Chapter
11 1053 (H.B. 2151), Acts of the 80th Legislature, Regular Session,
12 2007, is repealed. Section 102.061, Government Code, as reenacted
13 and amended by Chapter 921 (H.B. 3167), Acts of the 80th
14 Legislature, Regular Session, 2007, to reorganize and renumber that
15 section, continues in effect as further amended by this section.

16 SECTION 32. (a) Section 102.081, Government Code, as
17 amended by Chapter 921 (H.B. 3167), Acts of the 80th Legislature,
18 Regular Session, 2007, is amended to conform to the amendments made
19 to Section 102.081, Government Code, by Chapter 1053 (H.B. 2151),
20 Acts of the 80th Legislature, Regular Session, 2007, and is further
21 amended to read as follows:

22 Sec. 102.081. ADDITIONAL COURT COSTS ON CONVICTION IN
23 COUNTY COURT: CODE OF CRIMINAL PROCEDURE. The clerk of a county
24 court shall collect fees and costs under the Code of Criminal
25 Procedure on conviction of a defendant as follows:

26 (1) a jury fee (Art. 102.004, Code of Criminal
27 Procedure) . . . \$20;

1 (2) a fee for clerk of the court services (Art.
2 102.005, Code of Criminal Procedure) . . . \$40;

3 (3) a records management and preservation services fee
4 (Art. 102.005, Code of Criminal Procedure) . . . \$25;

5 (4) a security fee on a misdemeanor offense (Art.
6 102.017, Code of Criminal Procedure) . . . \$3;

7 (5) a graffiti eradication fee (Art. 102.0171, Code of
8 Criminal Procedure) . . . \$5; ~~and~~

9 (6) a juvenile case manager fee (Art. 102.0174, Code
10 of Criminal Procedure) . . . not to exceed \$5; and

11 (7) a civil justice fee (Art. 102.022, Code of
12 Criminal Procedure) . . . \$0.10.

13 (b) Section 102.081, Government Code, as amended by Chapter
14 1053 (H.B. 2151), Acts of the 80th Legislature, Regular Session,
15 2007, is repealed. Section 102.081, Government Code, as amended by
16 Chapter 921 (H.B. 3167), Acts of the 80th Legislature, Regular
17 Session, 2007, to reorganize and renumber that section, continues
18 in effect as further amended by this section.

19 SECTION 33. Section 102.101, Government Code, is amended to
20 read as follows:

21 Sec. 102.101. ADDITIONAL COURT COSTS ON CONVICTION IN
22 JUSTICE COURT: CODE OF CRIMINAL PROCEDURE. A clerk of a justice
23 court shall collect fees and costs under the Code of Criminal
24 Procedure on conviction of a defendant as follows:

25 (1) a jury fee (Art. 102.004, Code of Criminal
26 Procedure) . . . \$3;

27 (2) a fee for withdrawing request for jury less than 24

1 hours before time of trial (Art. 102.004, Code of Criminal
2 Procedure) . . . \$3;

3 (3) a jury fee for two or more defendants tried jointly
4 (Art. 102.004, Code of Criminal Procedure) . . . one jury fee of \$3;

5 (4) a security fee on a misdemeanor offense (Art.
6 102.017, Code of Criminal Procedure) . . . \$4;

7 (5) a fee for technology fund on a misdemeanor offense
8 (Art. 102.0173, Code of Criminal Procedure) . . . \$4;

9 (6) a juvenile case manager fee (Art. 102.0174, Code
10 of Criminal Procedure) . . . not to exceed \$5;

11 (7) a fee on conviction of certain offenses involving
12 issuing or passing a subsequently dishonored check (Art. 102.0071,
13 Code of Criminal Procedure) . . . not to exceed \$30; ~~and~~

14 (8) a court cost on conviction of a Class C misdemeanor
15 in a county with a population of 3.3 million or more, if authorized
16 by the county commissioners court (Art. 102.009, Code of Criminal
17 Procedure) . . . not to exceed \$7; and

18 (9) a civil justice fee (Art. 102.022, Code of
19 Criminal Procedure) . . . \$0.10.

20 SECTION 34. Section 102.121, Government Code, is amended to
21 read as follows:

22 Sec. 102.121. ADDITIONAL COURT COSTS ON CONVICTION IN
23 MUNICIPAL COURT: CODE OF CRIMINAL PROCEDURE. The clerk of a
24 municipal court shall collect fees and costs on conviction of a
25 defendant as follows:

26 (1) a jury fee (Art. 102.004, Code of Criminal
27 Procedure) . . . \$3;

1 (2) a fee for withdrawing request for jury less than 24
2 hours before time of trial (Art. 102.004, Code of Criminal
3 Procedure) . . . \$3;

4 (3) a jury fee for two or more defendants tried jointly
5 (Art. 102.004, Code of Criminal Procedure) . . . one jury fee of \$3;

6 (4) a security fee on a misdemeanor offense (Art.
7 102.017, Code of Criminal Procedure) . . . \$3;

8 (5) a fee for technology fund on a misdemeanor offense
9 (Art. 102.0172, Code of Criminal Procedure) . . . not to exceed \$4;

10 [~~and~~]

11 (6) a juvenile case manager fee (Art. 102.0174, Code
12 of Criminal Procedure) . . . not to exceed \$5; and

13 (7) a civil justice fee (Art. 102.022, Code of
14 Criminal Procedure) . . . \$0.10.

15 SECTION 35. The following laws are repealed:

16 (1) Section 1701.051(d), Occupations Code;

17 (2) Section 1701.156(c), Occupations Code;

18 (3) Section 1701.315, Occupations Code; and

19 (4) Section 1701.406, Occupations Code.

20 SECTION 36. (a) The changes in law made by this Act to
21 Sections 1701.053, 1701.056, and 1701.059, Occupations Code, apply
22 only to a member of the Texas Commission on Law Enforcement Officer
23 Standards and Education appointed on or after the effective date of
24 this Act and do not affect the entitlement of a member serving on
25 the commission immediately before that date to continue to serve
26 and function as a member of the commission for the remainder of the
27 member's term.

1 (b) Not later than March 1, 2010, the Texas Commission on
2 Law Enforcement Officer Standards and Education shall adopt rules
3 and policies required under:

4 (1) Sections 1701.202, 1701.254, and 1701.451,
5 Occupations Code, as amended by this Act; and

6 (2) Sections 1701.1521, 1701.1522, 1701.1523,
7 1701.1524, and 1701.162, Occupations Code, as added by this Act.

8 (c) The changes in law made by this Act with respect to
9 conduct that is grounds for the imposition of a disciplinary
10 sanction, including an administrative penalty, apply only to
11 conduct that occurs on or after the effective date of this Act.
12 Conduct that occurs before that date is governed by the law in
13 effect on the date the conduct occurred, and the former law is
14 continued in effect for that purpose.

15 (d) The Commission on Law Enforcement Officer Standards and
16 Education shall modify the training program required by Section
17 1701.352(b), Occupations Code, as amended by this Act, and ensure
18 that the modified program is available not later than January 1,
19 2010.

20 (e) A law enforcement agency affected by the change in law
21 made by this Act to Section 1701.355(a), Occupations Code, shall
22 designate a firearms proficiency officer not later than March 1,
23 2010. For purposes of this section, a state or local governmental
24 entity that employs one or more peace officers is a law enforcement
25 agency.

26 (f) The changes in law made by this Act to Section
27 1701.157(b), Occupations Code, apply to allocations made on or

1 after January 1, 2011. Allocations made before that date are
2 governed by the law in effect immediately before the effective date
3 of this Act, and the former law is continued in effect for that
4 purpose.

5 (g) The requirements of Articles 2.132, 2.133, and 2.134,
6 Code of Criminal Procedure, as amended by this Act, relating to the
7 compilation, analysis, and submission of incident-based data apply
8 only to information based on a motor vehicle stop occurring on or
9 after January 1, 2010.

10 (h) The imposition of a cost of court under Article 102.022,
11 Code of Criminal Procedure, as added by this Act, applies only to an
12 offense committed on or after the effective date of this Act. An
13 offense committed before the effective date of this Act is covered
14 by the law in effect when the offense was committed, and the former
15 law is continued in effect for that purpose. For purposes of this
16 section, an offense was committed before the effective date of this
17 Act if any element of the offense occurred before that date.

18 SECTION 37. This Act takes effect September 1, 2009.

David Newkirk

President of the Senate

John Strawn

Speaker of the House

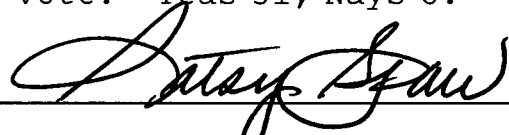
I certify that H.B. No. 3389 was passed by the House on May 13, 2009, by the following vote: Yeas 144, Nays 0, 1 present, not voting; that the House refused to concur in Senate amendments to H.B. No. 3389 on May 29, 2009, and requested the appointment of a conference committee to consider the differences between the two houses; and that the House adopted the conference committee report on H.B. No. 3389 on May 31, 2009, by the following vote: Yeas 144, Nays 0, 1 present, not voting.

Robert Haney

Chief Clerk of the House

H.B. No. 3389

I certify that H.B. No. 3389 was passed by the Senate, with amendments, on May 26, 2009, by the following vote: Yeas 31, Nays 0; at the request of the House, the Senate appointed a conference committee to consider the differences between the two houses; and that the Senate adopted the conference committee report on H.B. No. 3389 on May 31, 2009, by the following vote: Yeas 31, Nays 0.


Secretary of the Senate

APPROVED: 19 JUN 09

Date


Governor

FILED IN THE OFFICE OF THE
SECRETARY OF STATE
2 PM O'CLOCK

JUN 19 2009

