

Department of Legislative Services
Maryland General Assembly
2000 Session

FISCAL NOTE
Revised

House Bill 225 (Delegate Rawlings. *et al.*)

Commerce and Government Matters

Law Enforcement Officers - Vehicle Laws - Race-Based Traffic Stops

This bill requires each law enforcement agency in the State to adopt a policy against race-based “traffic stops.” The bill also establishes a reporting program on specified traffic stops.

Fiscal Summary

State Effect: The FY 2001 budget provides \$250,000, contingent on the enactment of this bill, to cover contractual personnel and operating costs for the Police Training Commission, as well as contractual costs to be paid to the Maryland Justice Analysis Center (MJAC). Future year costs would depend, in part, on budget allocations for continuing contract costs paid to MJAC. Revenues would not be significantly affected.

Local Effect: Generally minimal expenditure increases. Revenues would not be affected. **This bill may impose a mandate on a unit of local government.**

Small Business Effect: Minimal.

Analysis

Bill Summary: This bill requires the State’s law enforcement agencies to adopt a policy against race-based traffic stops that is to be used as a management tool to promote nondiscriminatory law enforcement. The policy must also be used in the training and counseling of officers. The bill requires law enforcement officers to record specified information in connection with each traffic stop, including the driver’s race and ethnicity, to evaluate the manner in which the vehicle laws are being enforced. A “traffic stop” does not include: (1) a checkpoint or roadblock stop; (2) a stop for public safety purposes arising

from a traffic accident or emergency situation; or (3) a stop based on the use of radar, laser, or vascar technology.

The bill requires the Police Training Commission, in consultation with the Maryland Justice Analysis Center (MJAC) at the University of Maryland at College Park, to develop a uniform form for use by each agency in the collection of data in an efficient manner, and guidelines that each law enforcement agency may use in data evaluation. Each law enforcement agency must compile the data collected by its officers and submit an annual report to MJAC by March 1 of each year reflecting the prior calendar year. MJAC is charged with analyzing the data based on a methodology developed in consultation with the Police Training Commission. By September 1 of each year, MJAC is required to issue a report to the Governor and the General Assembly as well as to each law enforcement agency.

The bill phases in the agencies covered by the bill over a three-year period. Effective January 1, 2001, the bill covers each agency with 100 or more officers. Effective January 2002, agencies with 50 or more officers are covered and, effective January 2003, every law enforcement agency is covered. Data collection is required to continue for a five-year period (until December 31, 2005) and a final report is required before September 1, 2006. The bill requires any law enforcement agency that, on or before July 1, 2000, has entered into an agreement with the U.S. Department of Justice (DOJ) requiring similar data collections to provide copies of the report made to DOJ in lieu of the bill's reporting requirements.

The bill provides for reports of noncompliance by law enforcement agencies to be made by the training commission and MJAC to the Governor and the Legislative Policy Committee.

The bill's provisions are terminated after August 31, 2006.

Current Law: There are no statutory provisions governing the use or study of racial profiling in connection with any police practices, including traffic stops, in the State.

Background: Racial profiling refers to police officers stopping motorists of color simply because they fit the "profile" of people who might carry contraband, drugs, or other illegal items. How widespread this technique is has been a topic of debate among minority groups, law enforcement personnel, civil libertarians, and academicians.

Last April, the U.S. Attorney General Janet Reno called for collection of more hard data by police departments to see whether and where racial profiles might be in use as a basis for traffic stops and other police questioning of citizens. She praised a program then recently instituted by San Diego police that requires traffic officers to record the race of people they

stop, and enables them to enter the information quickly and unobtrusively on a handheld computer.

Legislation is before Congress to require study of data from state and local law enforcement agencies with regard to race and traffic stops. The issue was formally discussed in at least 20 state legislatures in 1999 where measures were introduced to stop the practice and/or study the extent of its use. Of those states, however, only North Carolina and Connecticut passed meaningful anti-profiling bills in 1999. Virginia created a special legislative panel to study police agencies and their use of profiling to stop motorists.

North Carolina's statute requires collection of information on each traffic stop, including the race and gender of the drivers. It also requires documenting whether a search was performed, if consent was given for the search, whether contraband was found, if physical force was used, and whether the stop resulted in a ticket or arrest. The information will help determine whether certain racial groups are being unfairly profiled in North Carolina, which contains part of the I-95 corridor thought to serve as a major route for drug couriers.

The Connecticut law is similar, requiring law enforcement agencies to collect information on race, gender, ethnicity and age of the drivers, the nature of the alleged violations, and circumstances surrounding the stops. Municipal police departments and the state Department of Public Safety must adopt a written policy that prohibits stopping, detaining, or searching a person when the action is motivated by race, gender, ethnicity, or sexual orientation.

The issue is returning to other states this year after New Jersey's well-publicized admission that its state police had used race as a factor in stopping and searching motorists. A report by the New Jersey attorney general provided statistical evidence that police have been singling out blacks for extra scrutiny for years. The report found that from 1994 to 1999, in central and southern New Jersey, 77% of drivers asked to agree to a search were black or Hispanic. Nineteen percent of those stops ended in an arrest.

The Frederick (MD) News-Post has reported that an analysis of traffic stop reports collected by the Frederick Police Department for the last five months of 1999 found that, while the frequency of traffic stops fell roughly along demographic lines, there seemed to be a racial disparity in the proportion of stops that resulted in searches and police dog scans.

The use of racial profiling by the Maryland Department of State Police has been extensively documented. In 1995, the State settled a lawsuit alleging profiling by promising to cease using race as a factor in traffic stops and to keep records of searches and arrests. However, two years later, a federal judge ruled that evidence showed a "pattern and practice of discrimination" in traffic stops along Interstate 95 in northeastern Maryland. The State Police make approximately 758,000 traffic stops annually, including about 523,000 covered under this bill.

The second case, *The Maryland State Conference of NAACP Branches, et. al. vs. the Maryland State Police, et. al.*, was brought in 1998 as a class action law suit. Currently, discovery is underway to determine if the case meets the criteria for a class-action case. No trial date has been set. While the State Police do routinely collect some traffic stop data, it is believed to be limited in scope and usage. There are currently 1,622 active uniformed State Police personnel. Approximately two-thirds of uniformed personnel (1,080) are generally engaged in full-time law enforcement activities, including enforcement of the State's vehicle laws.

Allegations of racial profiling have also been an issue in Montgomery County. On January 14, 2000, a memorandum of agreement between the United States Department of Justice, Montgomery County, the Montgomery County Department of Police (MCPD), and the Fraternal Order of Police, Montgomery County Lodge 35, Inc. was released to provide for an effort to institute management practices by the MCPD that will promote nondiscriminatory law enforcement and community support for the MCPD and its officers. As part of the agreement, the MCPD will collect information on each traffic stop including: (1) the MCPD subgroup to which the officer is assigned; (2) date, time (within six hours) and location of the stop and its approximate duration; (3) the race/ethnicity and gender of the driver; (4) whether the stop was based on the use of radar; (5) whether the driver was issued a summons or warning; (6) whether consent to search the vehicle was requested and, if so, if it was given; (7) whether a nonconsensual search was conducted; (8) whether any contraband was seized; and (9) whether the driver or a passenger was arrested. The MCPD will design and implement a computerized system for maintaining and retrieving the traffic stop information, and the information will be used to identify methods for assuring nondiscriminatory law enforcement in connection with traffic stops. The agreement follows a three-year investigation by the U. S. Justice Department to discourage racial discrimination in traffic

stops, an investigation that started with a 1996 complaint by the Montgomery County Chapter of the NAACP alleging that the Montgomery County Police used excessive force against minorities, harassed them, and used racial profiling in traffic stops.

State Fiscal Effect: There are approximately 180 law enforcement agencies in the State that would be subject to the reporting requirements of this bill. The fiscal 2001 budget contains \$250,000 for the Department of Public Safety and Correctional Services to cover contractual personnel and operating expenses of the Police Training Commission to fulfill the requirements of this bill. The appropriation of these funds is contingent on the enactment of this bill.

General fund expenditures in fiscal 2001 for the Police Training Commission are estimated to be \$36,187, which accounts for a 90-day start-up delay. This estimate reflects the cost of hiring one contractual program coordinator to liaison with law enforcement agencies, assisting in developing necessary forms, policies, guidelines, and reporting formats, and to monitor compliance. It includes salaries, fringe benefits, one-time start-up costs, and ongoing operating expenses over the six-year period covered in the bill. Future years costs (estimated to rise to \$42,850 by fiscal 2005) reflect annualization and inflation. In addition, it is assumed that the balance of the fiscal 2001 appropriation will be used to initiate payment to MJAC for its role in developing forms and formats, doing the actual analysis from data submitted by law enforcement agencies, and preparing the annual reports to those agencies, the General Assembly, and the Governor.

This bill requires State and local police departments to collect and compile specific data relating to traffic stops. Actual reporting costs, if any, for affected law enforcement agencies cannot be specifically enumerated until the reporting forms and formats are developed and put into place. In any case, the Department of Natural Resources reports that this bill would not affect its finances. The Mass Transit Administration reports that the requirements of this bill would require some minimal additional expenditures, but could be handled with existing budgeted resources. The University System of Maryland could also absorb any such additional expenditures within the existing budgeted resources of the University System and its member institutions.

MJAC has advised that any forms and formats used for data reporting under this bill (developed in consultation with the Police Training Commission) are required to be “efficient” and are expected to be of such a nature as to be accommodated by any police agency with minimal cost or operational disruption.

It is noted that the State Police reports that this bill could significantly increase general fund expenditures annually. The State Police has estimated these costs at \$1.15 million in fiscal

2001, growing to over \$1.51 million annually while the bill is in effect. The State Police believe that handling this requirement could be achieved by hiring 35 new data entry clerks, two supervisors, and data processing equipment to receive and compile raw data collected by traffic officers involved in the annual traffic stops made by the State Police and to provide that data to MJAC.

The Department of Legislative Services (DLS) advises that MJAC's use of efficient reporting forms and formats should obviate the need for any such significant costs for the State Police. DLS notes that in Connecticut, for provisions relating to similar analyses and reporting requirements there for the Division of Criminal Justice, costs are estimated to be from \$280,000 to \$765,000 per year.

However, the State Police also notes that actual collection of such data would mean some lost efficiencies and revenue from tickets, since it is assumed that any additional time spent by troopers inputting such data would translate to less time on actual patrol and fewer tickets issued. Although the amount of time believed to be needed to enter such information is estimated to be between two minutes and seven minutes, it is not possible to reliably translate such lost efficiencies into actual revenue lost. In any event, such losses are assumed to be small for any police agency.

Local Fiscal Effect: A brief survey of local jurisdictions by DLS elicited the following information:

- Montgomery County is already under a U.S. Department of Justice settlement to collect similar data and, under this bill, would only be required to provide MJAC with copies of its federal reporting documentation.
- Washington County reports that this bill would require the hiring of one full-time additional staff person costing, including fringe benefits, approximately \$30,900 in fiscal 2001, with out-year costs growing at 4%.
- Kent County and Prince George's County report that the bill's provisions could be handled with existing resources.
- Baltimore City advises that this bill would result in some additional expenditures for overtime for data entry (\$70,000 annually), but these costs could be absorbed with existing budget resources. The Baltimore City Police stops an average of 1,400 vehicles per month (16,800 annually).

The Department of Legislative Services advises that actual costs for any local police agency

would depend upon the development of reporting forms and formats. As is noted above, it is expected that the use of uniform and efficient reporting tools would tend to minimize any such additional costs.

Additional Information

Prior Introductions: In 1999, SB 430 was introduced to establish a 12-member Task Force to Study Stops for Routine Traffic Violations. The task force would have been charged with studying a variety of areas and issues relating to routine traffic stops, including the identifying characteristics of individuals stopped, whether arrests were made as a result of the stop, and the benefit of traffic stops to drug interdiction efforts. The bill passed the Senate with amendments, and passed the House with amendments, and had no further action taken on it by the General Assembly.

Cross File: None.

Information Source(s): Department of State Police, Maryland Department of Transportation (Motor Vehicle Administration, Mass Transit Administration), Department of Natural Resources, University System of Maryland, Office of the Attorney General, Baltimore City, Kent County, Montgomery County, Prince George's County, Washington County, San Diego Police Department, North Carolina General Assembly (Fiscal Research Division), Connecticut General Assembly (Office of Fiscal Analysis), Congressional Budget Office, Department of Legislative Services

Fiscal Note History: First Reader - February 14, 2000

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Revised - House Third Reader - April 4, 2000

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