

Department of Legislative Services
Maryland General Assembly
2006 Session

FISCAL AND POLICY NOTE
Revised

Senate Bill 288

(Senator McFadden)

(By Request – Baltimore City Administration)

Judicial Proceedings

Environmental Matters

Vehicle Laws - Race-Based Traffic Stops - Sunset Extension and Reporting Requirements

This bill extends the termination date for the collection of traffic stop data required by Chapter 343 of 2001 from December 31, 2006 to December 31, 2007 and requires a final report on this data by the Maryland Justice Analysis Center (MJAC) by August 31, 2008 rather than August 31, 2007. The termination date of Chapter 343 is extended to August 31, 2008 from August 31, 2007.

Fiscal Summary

State Effect: Extending the termination dates for these provisions would not significantly affect State finances or operations. Resources to meet these requirements would continue under the general operating budget of the State Police.

Local Effect: Extending the termination dates for these provisions would not significantly affect local government finances or operations. Resources to meet these requirements would continue under the general operating budgets of affected local law enforcement units.

Small Business Effect: None.

Analysis

Current Law: In 2001, Chapter 343 required 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 Act 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 Police Training Commission, in consultation with MJAC at the University of Maryland at College Park, is required to develop a model format for the efficient recording of the traffic stop data on an electronic device, or by any other means, for use by a law enforcement agency 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 must issue a report to the Governor and the General Assembly as well as to each law enforcement agency.

Chapter 343 phased in the covered law enforcement agencies over a three-year period. Effective January 1, 2002, the provisions covered each agency with 100 or more officers. Effective January 2003, agencies with 50 or more officers were covered, and effective January 2004, every agency was covered. Data collection is required for a five-year period (until December 31, 2006) and a final report is due by August 31, 2007. The Act requires any law enforcement agency that, on or before July 1, 2001, had 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 Governor was required to assist local law enforcement agencies to implement the required data collection and reporting obligations by: (1) providing for a deficiency appropriation in the State budget for fiscal 2002; and (2) appropriating monies in the State budget for fiscal 2003 through 2006. Reports of noncompliance by law enforcement agencies were required to be made by the training commission and MJAC to the Governor and the Legislative Policy Committee.

The termination date for the collection of traffic stop data is December 31, 2006 and a final report on this data by MJAC is required by August 31, 2007.

Background: In the final section of the most recent report (September 2005) MJAC said that "the data summarized in this report ... cannot definitively tell us if race is a factor in law eligible traffic stops in Maryland." They do suggest that blacks are disproportionately stopped relative to their proportion of the population and of licensed drivers. However, for reasons discussed earlier, this can only be a suggestion not a

conclusion. Until there are better data on the impact on these estimates of possible driving and deployment differences that are associated with race/ethnicity, we will not be able to determine how much of the variation in stopping is related to race/ethnicity and how much is due to other factors. Once a stop occurs the decisions to search, arrest, or issue other formal responses is less related to race/ethnicity. In these areas, while there are some differences noted in the report, the overall finding is that these decisions do not appear to be highly associated with the drivers race/ethnicity.

The MJAC report also made the following recommendations:

Working with the data included in this report has identified a problem that can be easily corrected by a change in the statute. Namely, the statute requires the use of race/ethnicity codes that are not used by the census or the Department of Motor Vehicles [sic]. The statute requires the use of the following: Asian, black, white, Hispanic, and other. The standard classification is black or African American, white, Asian, native Hawaiian or other Pacific Islander, American Indian, and other. Adoption of the standard categories would facilitate the use of census and DMV data in future reports.

Another issue, but not one easily remedied, is determining the completeness of data submitted by each agency. The current statute does not require agencies to supply evidence that they have reported on all eligible stops nor does it allow the Maryland Justice Analysis Center to audit the data submitted. Data reported in 2003 for one agency clearly demonstrates that major mistakes can be made and that auditing data collection and reporting procedures would be helpful. The General Assembly should consider additional language that will allow us to have greater confidence in the completeness of data reporting.

In addition, if we are to determine the true extent to which race or ethnicity is involved in traffic stops in Maryland, we must be able to consider the impact of differences in driving behavior and police deployment. The General Assembly should consider requesting that the Maryland Justice Analysis Center develop a plan to do this and, after approval by the Police Training Commission, implement the plan for the next reporting period.

Since data collection began in 2002, major improvements have been observed in reporting, especially in the decreases in missing data, the use of verbal warnings, and the use of "unknown" as the explanation for stops and searches. These changes most likely reflect the increased attention the

collection of these data has brought to the issue of the role of race in traffic enforcement.

Additional Information

Prior Introductions: None.

Cross File: HB 582 (Delegate Marriott, *et al.*) (By Request – Baltimore City Administration) – Environmental Matters.

Information Source(s): Town of Elkton, Town of Thurmont, City of Annapolis, City of Bowie, Anne Arundel County, Kent County, Montgomery County, Prince George's County, Garrett County, Department of State Police, Baltimore City, Department of Legislative Services

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Analysis by: Guy G. Cherry

Direct Inquiries to:
(410) 946-5510
(301) 970-5510