

HOUSE BILL REPORT

SB 5852

As Passed House - Amended:

April 9, 2001

Title: An act relating to reporting on issues pertaining to racial profiling.

Brief Description: Reporting on issues pertaining to racial profiling.

Sponsors: By Senators Franklin, Kline, Costa and Kohl-Welles.

Brief History:

Committee Activity:

Criminal Justice & Corrections: 3/28/01 [DP];

Appropriations: 3/31/01, 4/2/01 [DPA].

Floor Activity:

Passed House - Amended: 4/9/01, 93-2.

**Brief Summary of Bill
(As Amended by House)**

- Encourages local law enforcement agencies to initiate policies to address racial profiling.
- Requires the Washington Association of Sheriffs and Police Chiefs to coordinate with the Criminal Justice Training Commission to ensure that issues related to racial profiling are addressed in basic law enforcement training and are offered in regional training for in-service law enforcement officers.

HOUSE COMMITTEE ON CRIMINAL JUSTICE & CORRECTIONS

Majority Report: Do pass. Signed by 8 members: Representatives Ballasiotes, Republican Co-Chair; O'Brien, Democratic Co-Chair; Ahern, Republican Vice Chair; Lovick, Democratic Vice Chair; Cairnes, Kagi, Kirby and Morell.

Staff: Yvonne Walker (786-7841).

HOUSE COMMITTEE ON APPROPRIATIONS

Majority Report: Do pass as amended. Signed by 31 members: Representatives Sehlin, Republican Co-Chair; H. Sommers, Democratic Co-Chair; Barlean, Republican Vice Chair; Doumit, Democratic Vice Chair; Lisk, Republican Vice Chair; Alexander, Benson, Boldt, Buck, Clements, Cody, Cox, Dunshee, Fromhold, Grant, Kagi, Keiser, Kenney, Kessler, Lambert, Linville, Mastin, McIntire, Mulliken, Pearson, Pflug, Ruderman, D. Schmidt, Schual-Berke, Talcott and Tokuda.

Staff: Bernard Dean (786-7130).

Background:

Racial profiling occurs when police officers stop motorists of certain racial or ethnic groups because the officers believe that these groups are more likely than others to commit certain crimes. Stopping a motorist in regards to his or her race or ethnicity is unconstitutional under both the federal and state constitution.

However, the United States Supreme Court has held that under the federal constitution a court will not examine the officer's subjective intent in making a traffic stop. Accordingly, under federal law an officer may stop a motorist for any violation of the traffic code, even when the officer's true reason for making the traffic stop was the driver's race or ethnicity. This practice is known as a pre-textual traffic stop. Pre-textual traffic stops are one of the primary ways by which officers racially profile.

On the other hand, in 1999 the Supreme Court of Washington chose not to follow the United States Supreme Court and expressly prohibited pre-textual traffic stops under the state constitution. In Washington a court will examine the totality of the circumstances which includes the officer's subjective intent and the objective reasonableness of the traffic stop.

In the year 2000, the Washington State Patrol (WSP) collected data over a six-month period on routine traffic stops. An analysis of the data appears to indicate that the WSP does not engage in racial profiling. However, the data also showed that minorities were arrested or had been issued citations and searched at higher rates than whites. According to the WSP the differences in enforcement actions and related searches between white persons and non-white persons will require more thorough analysis by the WSP to account for the differences.

While some local law enforcement agencies have collected data on traffic stops, there has not been a comprehensive study by local law enforcement agencies to determine if racial profiling is occurring in some cities or counties.

Summary of Amended Bill:

The legislature declares its support for the Washington Association of Sheriffs and Police

Chiefs' (WASPC) resolution condemning racial profiling and reaffirming local law enforcement agencies' commitment to ensuring the public safety and the protection of civil liberties for all persons. In addition, the legislature supports and encourages local law enforcement agencies' compliance with the recommendations of the WASPC regarding racial profiling. Local law enforcement agencies are encouraged to take actions to ensure that their practices do not enable or foster racial profiling which may include, but are not limited to: adopting policies designed to prevent racial profiling; working with community minority groups to improve communication and understanding; training to ensure that legitimate police actions are not misperceived as racial profiling; establishing a citizen concern review process to address allegations of racial profiling; and reviewing data on traffic stops.

The WASPC must coordinate with the Criminal Justice Training Commission to ensure that issues related to racial profiling are addressed in basic law enforcement training and offered in regional training for in-service law enforcement officers at all levels.

Appropriation: None.

Fiscal Note: Available on original bill.

Effective Date of Amended Bill: Ninety days after adjournment of session in which bill is passed.

Testimony For: (Criminal Justice & Corrections) Racial profiling is a statewide issue and affects not only the Latino, Asian, and African American population but all persons of color. Since it is such a major issue throughout this state we should have a compelling interest in this bill. In fact, even the federal government on the national level has taken an interest in the issue of racial profiling.

Data and reports have shown that Washington has a problem with racial profiling across the state. The Washington State Patrol's 2000 report showed that people of color are disproportionately subjected to police searches and ticketed more frequently. Non-whites accounted for 16 percent of all traffic stops, but just 23 percent of all searches. Whites are that are pulled over are 52 percent less likely to be ticketed.

The Washington Association of Sheriffs and Police Chiefs is currently researching this issue and will issue a report by December 2001. In addition, training is currently going on within the state patrol and many local law enforcement officers are participating. However, more needs to be done to follow-up on the issue of racial profiling but we are all fiscally tied. This bill, which costs less than \$10,000, can be considered chump change as compared to the overall state budget.

We need a written policy that condemns the practice of racial profiling in this state in order to restore the faith and credibility in our law enforcement agencies. This bill tries

to protect the rights of all citizens of this state and will help to build bridges to create better working relationships within communities.

This state will not tolerate racial profiling.

Testimony For: (Appropriations) The Washington Association of Sheriffs and Police Chiefs (WASPC) has developed a model policy on racial profiling and is distributing this policy to all local law enforcement agencies. In addition, the Criminal Justice Training Commission is offering some training on racial profiling in its courses. Currently, some local law enforcement agencies are voluntarily providing the WASPC with information concerning racial profiling. However, under the proposed amendment, local law enforcement agencies would not be required to provide the WASPC with any statistical, demographic or other information on racial profiling.

Testimony Against: (Criminal Justice & Corrections) None.

Testimony Against: (Appropriations) None.

Testified: (Criminal Justice & Corrections) Senator Franklin, prime sponsor; Thomas Dixon, Tacoma Pierce County Black Collection; Larry Erickson, Washington Association of Sheriffs and Police Chiefs; Vilaska Nguyen, Commission on Asian Pacific American Affairs; Onofre Contreras, Washington State Commission on Hispanic Affairs; and Tony Orange, Washington State Commission on African American Affairs.

Testified: (Appropriations) Larry Erickson, Washington Association of Sheriffs and Police Chiefs.