

HOUSE BILL REPORT

SB 5852

As Reported by House Committee On:
Criminal Justice & Corrections
Appropriations

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].

Brief Summary of Bill
(As Amended by House Committee)

- 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).

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 Bill:

The WASPC must work with all local law enforcement agencies and the CJTC to help reduce the issues surrounding racial profiling within the state.

All local law enforcement agencies must comply with recommendations set by the WASPC. The recommendations, aimed at reducing racial profiling, require that all local law enforcement agencies initiate the following policies and report on their progress to the WASPC:

- Adopt a written policy designed to condemn and prevent racial profiling;
- Review their existing procedures, practices, and training to ensure that they do not enable or foster the practice of racial profiling;
- Provide continued training to address racial profiling and how to better interact with persons they stop, so that legitimate police actions are not perceived as racial

- profiling;
- Ensure that they have in place a citizen complaint review process that can adequately address instances of racial profiling. The process must be accessible to citizens and must be fair. Officers found to be engaged in racial profiling must be held accountable through the appropriate disciplinary procedures within each department;
- Work with community minority groups to appropriately address the issue of racial profiling; and
- If fiscally able to do so, collect demographic data on traffic stops and analyze that data to ensure that racial profiling is not occurring.

In addition, the WASPC must coordinate with the CJTC 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.

The WASPC in cooperation with the CJTC, must report to the Legislature by December 31, 2001, and annually thereafter, on the progress and accomplishments of each local law enforcement agency in the state in meeting the requirements and goals aimed at reducing racial profiling.

Appropriation: None.

Fiscal Note: Available.

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

Testimony For: 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 Against: None.

Testified: 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.

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).

Summary of Recommendation of Committee On Appropriations Compared to Recommendation of Committee On Criminal Justice & Corrections:

The bill, as amended by the Appropriations Committee, encourages, rather than requires, local law enforcement to follow the Washington Association of Sheriffs and Police Chiefs' (WASPC) recommendations on racial profiling. Local law enforcement agencies may take, but are not required to take, any actions against racial profiling and are not required collect information on racial profiling or report this information to the WASPC. In addition, the WASPC is not required to report to the Legislature on racial profiling issues.

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: 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: None.

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