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**SENATE BILL 5588**

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**State of Washington                      65th Legislature                      2017 Regular Session**

**By** Senators Hasegawa, Saldaña, Chase, Darneille, Schoesler, McCoy, Hobbs, Pedersen, Keiser, Hunt, Rolfes, Kuderer, Conway, and Frockt

Read first time 01/30/17. Referred to Committee on Ways & Means.

1            AN        ACT        Relating        to        information        concerning        racial  
2        disproportionality; amending RCW 43.88C.010, 43.88A.020, and  
3        43.88C.050; adding a new section to chapter 43.88C RCW; adding a new  
4        section to chapter 28A.300 RCW; adding a new section to chapter 74.04  
5        RCW; creating new sections; and providing a contingent effective  
6        date.

7        BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF WASHINGTON:

8            NEW SECTION.        **Sec. 1.**        The legislature finds that the health,  
9        safety, and productivity of all communities is of the utmost  
10        importance to the state of Washington, including historically  
11        marginalized racial and ethnic communities. All citizens are harmed  
12        by unintended racial and ethnic disparities created by legislation.  
13        Therefore, the legislature intends to create a proactive tool  
14        intended to provide legislators with aggregated and disaggregated  
15        demographical data and other information to help legislators  
16        understand possible disparate racial and ethnic impacts, and thus  
17        better informed and intentional decisions on legislative proposals.

18            **Sec. 2.**        RCW 43.88C.010 and 2015 c 128 s 2 are each amended to  
19        read as follows:

1 (1) The caseload forecast council is hereby created. The council  
2 shall consist of two individuals appointed by the governor and four  
3 individuals, one of whom is appointed by the chairperson of each of  
4 the two largest political caucuses in the senate and house of  
5 representatives. The chair of the council shall be selected from  
6 among the four caucus appointees. The council may select such other  
7 officers as the members deem necessary.

8 (2) The council shall employ a caseload forecast supervisor to  
9 supervise the preparation of all caseload forecasts. As used in this  
10 chapter, "supervisor" means the caseload forecast supervisor.

11 (3) Approval by an affirmative vote of at least five members of  
12 the council is required for any decisions regarding employment of the  
13 supervisor. Employment of the supervisor shall terminate after each  
14 term of three years. At the end of the first year of each three-year  
15 term the council shall consider extension of the supervisor's term by  
16 one year. The council may fix the compensation of the supervisor. The  
17 supervisor shall employ staff sufficient to accomplish the purposes  
18 of this section.

19 (4) The caseload forecast council shall oversee the preparation  
20 of and approve, by an affirmative vote of at least four members, the  
21 official state caseload forecasts prepared under RCW 43.88C.020. If  
22 the council is unable to approve a forecast before a date required in  
23 RCW 43.88C.020, the supervisor shall submit the forecast without  
24 approval and the forecast shall have the same effect as if approved  
25 by the council.

26 (5) A councilmember who does not cast an affirmative vote for  
27 approval of the official caseload forecast may request, and the  
28 supervisor shall provide, an alternative forecast based on  
29 assumptions specified by the member.

30 (6) Members of the caseload forecast council shall serve without  
31 additional compensation but shall be reimbursed for travel expenses  
32 in accordance with RCW 44.04.120 while attending sessions of the  
33 council or on official business authorized by the council.  
34 Nonlegislative members of the council shall be reimbursed for travel  
35 expenses in accordance with RCW 43.03.050 and 43.03.060.

36 (7) "Caseload," as used in this chapter, means:

37 (a) The number of persons expected to meet entitlement  
38 requirements and require the services of public assistance programs,  
39 state correctional institutions, state correctional noninstitutional  
40 supervision, state institutions for juvenile offenders, the common

1 school system, long-term care, medical assistance, foster care, and  
2 adoption support;

3 (b) The number of students who are eligible for the Washington  
4 college bound scholarship program and are expected to attend an  
5 institution of higher education as defined in RCW 28B.92.030;

6 (c) The number of children who are eligible, as defined in RCW  
7 43.215.405, to participate in, and the number of children actually  
8 served by, the early childhood education and assistance program.

9 (8) The caseload forecast council shall forecast the temporary  
10 assistance for needy families and the working connections child care  
11 programs as a courtesy.

12 (9) The caseload forecast council shall forecast youth  
13 participating in the extended foster care program pursuant to RCW  
14 74.13.031 separately from other children who are residing in foster  
15 care and who are under eighteen years of age.

16 (10) Prior to each legislative session, the caseload forecast  
17 council shall prepare and submit to the legislature a general  
18 disproportionality report. The general disproportionality report must  
19 contain the following information:

20 (a) A table of percentages based on the total number of adult  
21 felony sentences in each crime category, distributed by race and  
22 ethnicity;

23 (b) A table of percentages of Washington state's general adult  
24 at-risk population, between the ages of eighteen and fifty-four,  
25 distributed by race and ethnicity;

26 (c) A complete list of felony offenses in each crime forecasting  
27 category; and

28 (d) A discussion of limitations in the data presented in (a) and  
29 (b) of this subsection.

30 (11) Unless the context clearly requires otherwise, the  
31 definitions provided in RCW 43.88.020 apply to this chapter.

32 NEW SECTION. Sec. 3. A new section is added to chapter 43.88C  
33 RCW to read as follows:

34 (1) The caseload forecast council shall establish a procedure for  
35 the provision of racial and ethnic impact statements on the effect  
36 that legislative bills and resolutions modifying adult felony  
37 sentencing will have on racial and ethnic minority groups including,  
38 but not limited to, the racial and ethnic composition of the criminal  
39 justice system.

1 (2) Racial and ethnic impact statements must be included with the  
2 fiscal note produced by the caseload forecast council on any  
3 legislative bill or resolution modifying adult felony sentencing.  
4 Racial and ethnic impact statements must include, at a minimum, the  
5 following:

6 (a) An introductory narrative paragraph;

7 (b) Tables, tailored to the specific fiscal note, displaying:

8 (i) Percentages of the general adult at-risk population  
9 distributed by race and ethnicity and percentages for either the  
10 proper crime forecasting category or where available and appropriate,  
11 the specific offense, distributed by race and ethnicity; and

12 (ii) Projected percentages for either the proper crime  
13 forecasting category or where available and appropriate, the specific  
14 offense, distributed by race and ethnicity, if the proposed bill or  
15 resolution is adopted; and

16 (c) Additional narrative discussing the potential racial and  
17 ethnic impacts of the legislation and the limitations of the data, if  
18 any.

19 (3) The caseload forecast council may work in cooperation with  
20 appropriate legislative committees and legislative staff, the office  
21 of financial management, the department of corrections, the  
22 department of social and health services, the administrative office  
23 of the courts, the minority and justice commission, the Washington  
24 state institute for public policy, and the sentencing guidelines  
25 commission to assist in the development of racial impact statements.

26 (4) This section does not prevent either the house of  
27 representatives or the senate from acting on any bill before it as  
28 otherwise provided by the state Constitution, by law, or by the rules  
29 and joint rules of the senate and house of representatives. The lack  
30 of any racial impact statement provided in this section or any error  
31 in the accuracy thereof does not affect the validity of any measure  
32 otherwise duly passed by the legislature.

33 **Sec. 4.** RCW 43.88A.020 and 2011 c 140 s 1 are each amended to  
34 read as follows:

35 The office of financial management shall, in cooperation with  
36 appropriate legislative committees and legislative staff, establish a  
37 procedure for the provision of fiscal notes on the expected impact of  
38 bills and resolutions which increase or decrease or tend to increase  
39 or decrease state government revenues or expenditures. Such fiscal

1 notes shall indicate by fiscal year the impact for the remainder of  
2 the biennium in which the bill or resolution will first take effect  
3 as well as a cumulative forecast of the fiscal impact for the  
4 succeeding four fiscal years. Fiscal notes shall separately identify  
5 the fiscal impacts on the operating and capital budgets. Estimates of  
6 fiscal impacts shall be calculated using the procedures contained in  
7 the fiscal note instructions issued by the office of financial  
8 management.

9 In establishing the fiscal impact called for pursuant to this  
10 chapter, the office of financial management shall coordinate the  
11 development of fiscal notes, and, where applicable, the development  
12 of racial impact statements, with all state agencies affected.

13 The preparation and dissemination of the ongoing cost projections  
14 and other requirements of RCW 43.135.031 for bills increasing taxes  
15 or fees shall take precedence over fiscal notes.

16 For proposed legislation that uniquely affects school districts,  
17 in addition to any fiscal note prepared under this chapter, a school  
18 district fiscal note must be prepared under the process established  
19 in RCW 28A.300.0401.

20 **Sec. 5.** RCW 43.88C.050 and 2015 c 128 s 3 are each amended to  
21 read as follows:

22 (1) The caseload forecast council shall appoint a research staff  
23 of sufficient size and with sufficient resources to accomplish its  
24 duties. The caseload forecast council may request from the  
25 administrative office of the courts, the department of early  
26 learning, the department of corrections, the health care authority,  
27 the superintendent of public instruction, the Washington student  
28 achievement council, the department of social and health services,  
29 and other agencies with caseloads forecasted by the council, such  
30 data, information, and data processing assistance as it may need to  
31 accomplish its duties, and such services shall be provided without  
32 cost to the caseload forecast council.

33 (2) The caseload forecast council may request from the  
34 administrative office of the courts, the department of social and  
35 health services, the department of corrections, the office of the  
36 superintendent of public instruction, and other agencies, such data,  
37 information, and data processing assistance as it may need to  
38 accomplish its duties, and these services shall be provided without  
39 charge to the caseload forecast council.

1       (3) The caseload forecast council is considered a criminal  
2 justice agency within the meaning of RCW 10.97.030.

3       NEW SECTION.   **Sec. 6.**   A new section is added to chapter 28A.300  
4 RCW to read as follows:

5       (1) The office of the superintendent of public instruction, in  
6 cooperation with appropriate legislative committees and legislative  
7 staff, the office of financial management, the minority and justice  
8 commission, the Washington state institute for public policy, and the  
9 caseload forecast council, shall establish a procedure for the  
10 provision of racial and ethnic impact statements on the effect that  
11 legislative bills and resolutions will have on racial and ethnic  
12 minority students including, but not limited to, the racial and  
13 ethnic composition of K-12 students subject to discipline.

14       (2) The office of the superintendent of public instruction shall  
15 provide a racial and ethnic impact statement on any legislative  
16 proposal at the request of any legislator. The request must set forth  
17 the specific criteria and categories of students to be used in  
18 determining the racial and ethnic impact of the proposed legislation.

19       (3) Racial and ethnic impact statements provided by the office of  
20 the superintendent of public instruction must include, at a minimum,  
21 the following:

22       (a) An introductory narrative paragraph;

23       (b) Tables, tailored to the specific fiscal note, displaying:

24       (i) Percentages of the overall student population distributed by  
25 race and ethnicity and percentages for the specific category of  
26 students as described in the criteria set forth by the legislator in  
27 his or her request, distributed by race and ethnicity; and

28       (ii) Projected percentages of the overall student population  
29 distributed by race and ethnicity and percentages for the specific  
30 category of students as described in the criteria set forth by the  
31 legislator in his or her request, distributed by race and ethnicity,  
32 if the proposed bill or resolution is adopted; and

33       (c) Additional narrative discussing the potential racial and  
34 ethnic impacts of the legislation and the limitations of the data, if  
35 any.

36       (4) The racial and ethnic impact statement must show the effect  
37 of the legislation on a range of representative school districts. The  
38 racial and ethnic impact statement must set forth any assumptions  
39 that were used in selecting the representative districts.

1 (5) This section does not prevent either the house of  
2 representatives or the senate from acting on any bill before it as  
3 otherwise provided by the state Constitution, by law, or by the rules  
4 and joint rules of the senate and house of representatives. The lack  
5 of any racial impact statement provided in this section or any error  
6 in the accuracy thereof does not affect the validity of any measure  
7 otherwise duly passed by the legislature.

8 NEW SECTION. **Sec. 7.** A new section is added to chapter 74.04  
9 RCW to read as follows:

10 (1) The department, in cooperation with appropriate legislative  
11 committees and legislative staff, the office of financial management,  
12 the minority and justice commission, the Washington state institute  
13 for public policy, and the caseload forecast council, shall establish  
14 a procedure for the provision of racial and ethnic impact statements  
15 on the effect that legislative bills and resolutions will have on  
16 racial and ethnic minority groups including, but not limited to, the  
17 racial and ethnic composition of populations receiving assistance  
18 from the department.

19 (2) The department shall provide a racial and ethnic impact  
20 statement on any legislative proposal at the request of any  
21 legislator. The request must set forth the specific criteria and  
22 categories of persons to be used in determining the racial and ethnic  
23 impact of the proposed legislation.

24 (3) Racial and ethnic impact statements provided by the  
25 department must include, at a minimum, the following:

26 (a) An introductory narrative paragraph;

27 (b) Tables, tailored to the specific fiscal note, displaying:

28 (i) Percentages of the general adult at-risk population  
29 distributed by race and ethnicity and percentages for the specific  
30 category of persons as described in the criteria set forth by the  
31 legislator in his or her request, distributed by race and ethnicity;  
32 and

33 (ii) Projected percentages of the population distributed by race  
34 and ethnicity and percentages for the specific category of persons as  
35 described in the criteria set forth by the legislator in his or her  
36 request, distributed by race and ethnicity, if the proposed bill or  
37 resolution is adopted; and

1 (c) Additional narrative discussing the potential racial and  
2 ethnic impacts of the legislation and the limitations of the data, if  
3 any.

4 (4) This section does not prevent either the house of  
5 representatives or the senate from acting on any bill before it as  
6 otherwise provided by the state Constitution, by law, or by the rules  
7 and joint rules of the senate and house of representatives. The lack  
8 of any racial impact statement provided in this section or any error  
9 in the accuracy thereof does not affect the validity of any measure  
10 otherwise duly passed by the legislature.

11 NEW SECTION. **Sec. 8.** The minority and justice commission, in  
12 consultation with the sentencing guidelines commission, shall conduct  
13 an evaluation of the implementation of this act and submit a report  
14 to the appropriate committees of the legislature by January 1, 2021.  
15 The report shall include:

16 (1) Whether the information provided in racial and ethnic impact  
17 statements was presented in a clear, concise, and understandable  
18 form;

19 (2) Whether any limitations in transmission of relevant data to  
20 the caseload forecast council existed during the pilot project;

21 (3) The timeliness of the provision of racial and ethnic impact  
22 statements under this act;

23 (4) The cost-effectiveness of the provision of racial and ethnic  
24 impact statements under this act;

25 (5) Whether the implementation of racial and ethnic impact  
26 statements led to more equitable outcomes in the criminal justice  
27 system; and

28 (6) A recommendation as to whether to continue the provision of  
29 racial and ethnic impact statements on a permanent basis, including  
30 expansion of racial and ethnic impact statements into additional  
31 subject matter areas, such as legislative bills and resolutions  
32 affecting other parts of the criminal justice system.

33 NEW SECTION. **Sec. 9.** Section 6 of this act takes effect upon  
34 the first collection and submittal of student-level data as required  
35 by RCW 28A.300.042. The office of the superintendent of public  
36 instruction shall provide notice of the effective date of section 6  
37 of this act to affected parties, the chief clerk of the house of



1 representatives, the secretary of the senate, the office of the code  
2 reviser, and others as deemed appropriate by the office.

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