

10-10-2018

Repeals Law Requiring Certain Law Enforcement to Collect and Report Specified Data on Stops and Searches. Initiative Statute.

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The Attorney General of California has prepared the following title and summary of the chief purpose and points of the proposed measure:

REPEALS LAW REQUIRING CERTAIN LAW ENFORCEMENT TO COLLECT AND REPORT SPECIFIED DATA ON STOPS AND SEARCHES. INITIATIVE STATUTE.

Repeals provision in the Racial and Identity Profiling Act of 2015 that requires state and local agencies that employ peace officers to collect specified data on all stops and searches, including the reason for the stop or search, and perceived race, ethnicity, gender, and age of person stopped, and to report such data to the Attorney General annually. Reduces transparency by eliminating mandated data collection about stops and searches used by Attorney General, other law enforcement officials, the public, and researchers to identify and prevent racial and identity profiling. Summary of estimate by Legislative Analyst and Director of Finance of fiscal impact on state and local governments: **Reduction in and avoidance of ongoing state and local law enforcement costs—potentially in the high tens of millions of dollars annually—related to eliminating various stop-related data collection, reporting, and analysis requirements. Potential avoidance of one-time state and local law enforcement costs—ranging from relatively minor to the tens of millions of dollars—related to technology and equipment improvements.** (18-0007)

RECEIVED

August 1, 2018

AUG 03 2018

Dear Attorney General State of California,

INITIATIVE COORDINATOR
ATTORNEY GENERAL'S OFFICE

I Mark Averbeck a citizen of the United States who lives in California is making a formal request that a circulating title and summary be written by the Attorney General's Office for the purpose of repealing AB 109 and AB 953. I am enclosing the documents that were prepared by our Legislative Counsel Attorney Byron Damiani. If you need to contact him his office number is 916-341-8042.

I am enclosing a check for the amount of \$4,000 to cover the cost of both petitions as well as copies of my original request sent to the Legislative Counsel.

Contact Information:

Cell number of 909-478-4001

markaverbeck@gmail.com

7784 Silver Buckle Rd. Highland, Ca. 92346

I Mark Averbeck, declare under penalty of perjury that I am a citizen of the United States, 18 years of age or older, and a resident of San Bernardino County, California.

I Mark Averbeck, acknowledge that it is a misdemeanor under the state law (Section 18650 of the Elections Code) to knowingly or willfully allow the signatures on an initiative petition to be used for any purpose other than qualification of the proposed measure for the ballot. I certify that I will not knowingly or willfully allow the signatures for this initiative to be used for any purpose other than qualification of the measure for the ballot.

Mark Averbeck

DATED THIS 1ST DAY OF
AUGUST, 2018

8-1-2018

INITIATIVE MEASURE TO BE SUBMITTED DIRECTLY TO THE VOTERS

12-point
Boldface
Type

The Attorney General of California has prepared the following circulating title and summary of the chief purpose and points of the proposed measure:

(Here set forth the unique numeric identifier provided by the Attorney General and circulating title and summary prepared by the Attorney General. Both the Attorney General's unique numeric identifier and the circulating title and summary must also be printed across the top of each page of the petition whereon signatures are to appear.)

TO THE HONORABLE SECRETARY OF STATE OF CALIFORNIA

Type: Roman
Boldface not
smaller than
12-point

We, the undersigned, registered, qualified voters of California, residents of the County of San Bernardino, hereby propose amendments to the Government Code and the Penal Code, relating to peace officer stops, and petition the Secretary of State to submit the same to the voters of California for their adoption or rejection at the next succeeding general election or at any special statewide election held prior to that general election or as otherwise provided by law. The proposed statutory amendments read as follows:

SECTION 1. This act shall be known, and may be cited, as the Peace Officer Stop Act of 2020.

SEC. 2. Section 12525.5 of the Government Code is repealed.

~~12525.5. (a) (1) Each state and local agency that employs peace officers shall annually report to the Attorney General data on all stops conducted by that agency's peace officers for the preceding calendar year.~~

~~(2) Each agency that employs 1,000 or more peace officers shall begin collecting data on or before July 1, 2018, and shall issue its first round of reports on or before April 1, 2019. Each agency that employs 667 or more but less than 1,000 peace officers shall begin collecting data on or before January 1, 2019, and shall issue its first round of reports on or before April 1, 2020. Each agency that employs 334 or more but less than 667 peace officers shall begin collecting data on or before January 1, 2021, and shall issue its first round of reports on or before April 1, 2022. Each agency that employs one or more but less than 334 peace officers shall begin collecting data on or before January 1, 2022, and shall issue its first round of reports on or before April 1, 2023.~~

~~(b) The reporting shall include, at a minimum, the following information for each stop:~~

- ~~(1) The time, date, and location of the stop;~~
- ~~(2) The reason for the stop.~~

~~(3) The result of the stop, such as, no action, warning, citation, property seizure, or arrest.~~

~~(4) If a warning or citation was issued, the warning provided or violation cited.~~

~~(5) If an arrest was made, the offense charged.~~

~~(6) The perceived race or ethnicity, gender, and approximate age of the person stopped, provided that the identification of these characteristics shall be based on the observation and perception of the peace officer making the stop, and the information shall not be requested from the person stopped. For motor vehicle stops, this paragraph only applies to the driver, unless any actions specified under paragraph (7) apply in relation to a passenger, in which case the characteristics specified in this paragraph shall also be reported for him or her.~~

~~(7) Actions taken by the peace officer during the stop, including, but not limited to, the following:~~

~~(A) Whether the peace officer asked for consent to search the person, and, if so, whether consent was provided.~~

~~(B) Whether the peace officer searched the person or any property, and, if so, the basis for the search and the type of contraband or evidence discovered, if any.~~

~~(C) Whether the peace officer seized any property and, if so, the type of property that was seized and the basis for seizing the property.~~

~~(e) If more than one peace officer performs a stop, only one officer is required to collect and report to his or her agency the information specified under subdivision (b).~~

~~(d) State and local law enforcement agencies shall not report the name, address, social security number, or other unique personal identifying information of persons stopped, searched, or subjected to a property seizure, for purposes of this section. Notwithstanding any other law, the data reported shall be available to the public, except for the badge number or other unique identifying information of the peace officer involved. Law enforcement agencies are solely responsible for ensuring that personally identifiable information of the individual stopped or any other information that is exempt from disclosure pursuant to this section is not transmitted to the Attorney General in an open text field.~~

~~(e) Not later than January 1, 2018, the Attorney General, in consultation with stakeholders, including the Racial and Identity Profiling Advisory Board (RIPA) established pursuant to paragraph (1) of subdivision (j) of Section 13519.4 of the Penal Code, federal, state, and local law enforcement agencies and community, professional, academic, research, and civil and human rights organizations, shall issue regulations for the collection and reporting of data required under subdivision (b). The regulations shall specify all data to be reported, and provide standards, definitions, and technical specifications to ensure uniform reporting practices across all reporting agencies. To the best extent possible, such regulations should be compatible with any similar federal data collection or reporting program.~~

~~(f) All data and reports made pursuant to this section are public records within the meaning of subdivision (e) of Section 6252, and are open to public inspection pursuant to Sections 6253 and 6258.~~

~~(g) (1) For purposes of this section, "peace officer," as defined in Chapter 4.5 (commencing with Section 830) of Title 3 of Part 2 of the Penal Code, is limited to members of the California Highway Patrol, a city or county law enforcement agency,~~

and California state or university educational institutions. "Peace officer," as used in this section, does not include probation officers and officers in a custodial setting.

(2) For purposes of this section, "stop" means any detention by a peace officer of a person, or any peace officer interaction with a person in which the peace officer conducts a search, including a consensual search, of the person's body or property in the person's possession or control.

SEC. 3. Section 13519.4 of the Penal Code is amended to read:

13519.4. (a) The commission shall develop and disseminate guidelines and training for all peace officers in California as described in subdivision (a) of Section 13510 and who adhere to the standards approved by the commission, on the racial and cultural differences among the residents of this state. The course or courses of instruction and the guidelines shall stress understanding and respect for racial, identity, and cultural differences, and development of effective, noncombative methods of carrying out law enforcement duties in a diverse racial, identity, and cultural environment.

(b) The course of basic training for peace officers shall include adequate instruction on racial, identity, and cultural diversity in order to foster mutual respect and cooperation between law enforcement and members of all racial, identity, and cultural groups. In developing the training, the commission shall consult with appropriate groups and individuals having an interest and expertise in the field of racial, identity, and cultural awareness and diversity.

(c) For the purposes of this section the following shall apply:

(1) "Disability," "gender," "nationality," "religion," and "sexual orientation" have the same meaning as in Section ~~422.55~~, 422.56.

(2) "Culturally diverse" and "cultural diversity" include, but are not limited to, disability, gender, nationality, religion, and sexual orientation issues.

(3) "Racial" has the same meaning as "race or ethnicity" in Section ~~422.55~~, 422.56.

(4) "Stop" has the same meaning as in paragraph (2) of subdivision (g) of Section ~~12525.5~~ of the Government Code. means any detention by a peace officer of a person, or any peace officer interaction with a person in which the peace officer conducts a search, including a consensual search, of the person's body or property in the person's possession or control.

(d) The Legislature finds and declares as follows:

(1) The working men and women in California law enforcement risk their lives every day. The people of California greatly appreciate the hard work and dedication of peace officers in protecting public safety. The good name of these officers should not be tarnished by the actions of those few who commit discriminatory practices.

(2) Racial or identity profiling is a practice that presents a great danger to the fundamental principles of our Constitution and a democratic society. It is abhorrent and cannot be tolerated.

(3) Racial or identity profiling alienates people from law enforcement, hinders community policing efforts, and causes law enforcement to lose credibility and trust among the people whom law enforcement is sworn to protect and serve.

(4) Pedestrians, users of public transportation, and vehicular occupants who have been stopped, searched, interrogated, and subjected to a property seizure by a peace officer for no reason other than the color of their skin, national origin, religion, gender

identity or expression, housing status, sexual orientation, or mental or physical disability are the victims of discriminatory practices.

(5) It is the intent of the Legislature in enacting the changes to this section made by the act that added this paragraph that additional training is required to address the pernicious practice of racial or identity profiling and that enactment of this section is in no way dispositive of the issue of how the state should deal with racial or identity profiling.

(e) "Racial or identity profiling," for purposes of this section, is the consideration of, or reliance on, to any degree, actual or perceived race, color, ethnicity, national origin, age, religion, gender identity or expression, sexual orientation, or mental or physical disability in deciding which persons to subject to a stop or in deciding upon the scope or substance of law enforcement activities following a stop, except that an officer may consider or rely on characteristics listed in a specific suspect description. The activities include, but are not limited to, traffic or pedestrian stops, or actions during a stop, such as asking questions, frisks, consensual and nonconsensual searches of a person or any property, seizing any property, removing vehicle occupants during a traffic stop, issuing a citation, and making an arrest.

(f) A peace officer shall not engage in racial or identity profiling.

(g) Every peace officer in this state shall participate in expanded training as prescribed and certified by the Commission on Peace Officers Standards and Training.

(h) The curriculum shall be evidence-based and shall include and examine evidence-based patterns, practices, and protocols that make up racial or identity profiling, including implicit bias. This training shall prescribe evidence-based patterns, practices, and protocols that prevent racial or identity profiling. In developing the training, the commission shall consult with the Racial and Identity Profiling Advisory Board established pursuant to subdivision (j). The course of instruction shall include, but not be limited to, significant consideration of each of the following subjects:

(1) Identification of key indices and perspectives that make up racial, identity, and cultural differences among residents in a local community.

(2) Negative impact of intentional and implicit biases, prejudices, and stereotyping on effective law enforcement, including examination of how historical perceptions of discriminatory enforcement practices have harmed police-community relations and contributed to injury, death, disparities in arrest detention and incarceration rights, and wrongful convictions.

(3) The history and role of the civil and human rights movement and struggles and their impact on law enforcement.

(4) Specific obligations of peace officers in preventing, reporting, and responding to discriminatory or biased practices by fellow peace officers.

(5) Perspectives of diverse, local constituency groups and experts on particular racial, identity, and cultural and police-community relations issues in a local area.

(6) The prohibition against racial or identity profiling in subdivision (f).

(i) Once the initial basic training is completed, each peace officer in California as described in subdivision (a) of Section 13510 who adheres to the standards approved by the commission shall be required to complete a refresher course every five years thereafter, or on a more frequent basis if deemed necessary, in order to keep current with changing racial, identity, and cultural trends.

(j) (1) ~~Beginning July 1, 2016, the~~ The Attorney General shall establish the Racial and Identity Profiling Advisory Board (RIPA) for the purpose of eliminating racial and identity profiling, and improving diversity and racial and identity sensitivity in law enforcement.

(2) RIPA shall include the following members:

(A) The Attorney General, or his or her designee.

(B) The President of the California Public Defenders Association, or his or her designee.

(C) The President of the California Police Chiefs Association, or his or her designee.

(D) The President of the California State Sheriffs' Association, or his or her designee.

(E) The President of the Peace Officers Research Association of California, or his or her designee.

(F) The Commissioner of the California Highway Patrol, or his or her designee.

(G) A university professor who specializes in policing, and racial and identity equity.

(H) Two representatives of human or civil rights tax-exempt organizations who specialize in civil or human rights.

(I) Two representatives of community organizations who specialize in civil or human rights and criminal justice, and work with victims of racial and identity profiling. At least one representative shall be between 16 and 24 years of age.

(J) Two religious clergy members who specialize in addressing and reducing racial and identity bias toward individuals and groups.

(K) Up to two other members that the Governor may prescribe.

(L) Up to two other members that the President pro Tempore of the Senate may prescribe.

(M) Up to two other members that the Speaker of the Assembly may prescribe.

(3) Each year, on an annual basis, RIPA shall do the following:

~~(A) Analyze the data reported pursuant to Section 12525.5 of the Government Code and Section 13012 of this code.~~

~~(B)~~

(A) Analyze law enforcement training under this section.

~~(C)~~

(B) Work in partnership with state and local law enforcement agencies to review and analyze racial and identity profiling policies and practices across geographic areas in California.

~~(D)~~

(C) Conduct, and consult available, evidence-based research on intentional and implicit biases, and law enforcement stop, search, and seizure tactics.

~~(E)~~

(D) Issue a report that provides RIPA's analysis under subparagraphs (A) to ~~(D)~~, (C), inclusive, and detailed findings on the past and current status of racial and identity profiling, and makes policy recommendations for eliminating racial and identity profiling. RIPA shall post the report on its Internet Web site. Each report shall include disaggregated statistical data for each reporting law enforcement agency. ~~The report shall include, at minimum, each reporting law enforcement agency's total results for~~

~~each data collection criterion under subdivision (b) of Section 12525.5 of the Government Code for each calendar year. The reports shall be retained and made available to the public by posting those reports on the Department of Justice's OpenJustice Web portal. The first annual report shall be issued no later than January 1, 2018. The reports are public records within the meaning of subdivision (d) of Section 6252 of the Government Code and are open to public inspection pursuant to Sections 6253, 6256, 6257, 6253 and 6258 of the Government Code.~~

~~(F)~~

~~(E)~~ Hold at least three public meetings annually to discuss racial and identity profiling, and potential reforms to prevent racial and identity profiling. Each year, one meeting shall be held in northern California, one in central California, and one in southern California. RIPA shall provide the public with notice of at least 60 days before each meeting.

~~(4) Pursuant to subdivision (c) of Section 12525.5 of the Government Code, RIPA shall advise the Attorney General in developing regulations for the collection and reporting of stop data, and ensuring uniform reporting practices across all reporting agencies.~~

~~(5)~~

~~(4)~~ Members of RIPA shall not receive compensation, nor per diem expenses, for their services as members of RIPA.

~~(6) No~~

~~(5)~~ An action of RIPA shall be is not valid unless agreed to by a majority of its members.

~~(7)~~

~~(6)~~ The initial terms of RIPA members shall be four years.

~~(8)~~

~~(7)~~ Each year, RIPA shall elect two of its members as cochairpersons.



September 24, 2018

Hon. Xavier Becerra
Attorney General
1300 I Street, 17th Floor
Sacramento, California 95814

RECEIVED

SEP 24 2018

INITIATIVE COORDINATOR
ATTORNEY GENERAL'S OFFICE

Attention: Ms. Anabel Renteria
Initiative Coordinator

Dear Attorney General Becerra:

Pursuant to Elections Code Section 9005, we have reviewed the proposed statutory initiative related to data collection and reporting requirements for law enforcement agencies (A.G. File 18-0007).

Background

Law Enforcement Officers Required to Begin Collecting and Reporting Certain Data on All Stops. In 2015, the Legislature enacted legislation requiring that the California Highway Patrol (CHP), city or county law enforcement agencies, and university education institution law enforcement agencies collect and report annually to the Department of Justice (DOJ) certain data on all stops conducted by their officers. Under the legislation, these requirements are to be phased in—based on the size of the particular law enforcement agency—beginning July 1, 2018 and reaching full implementation by January 1, 2022. Specifically, agencies are required to collect data by the following dates:

- July 1, 2018 for agencies employing 1,000 or more officers.
- January 1, 2019 for agencies employing 667 to 999 officers.
- January 1, 2021 for agencies employing 334 to 666 officers.
- January 1, 2022 for agencies employing 1 to 333 officers.

The specific data that law enforcement are required to collect include: (1) the time, date, and location of the stop; (2) the reason for the stop; (3) the perceived race or ethnicity, gender, and age of the stopped individual; and (4) the result of the stop. As required by state law, DOJ issued regulations in November 2017 that specify all the data elements that nearly 500 law enforcement agencies must collect and the collection and reporting standards they must follow.

Advisory Board on Racial and Identity Profiling. In adopting the above requirements, the Legislature also established the Racial and Identity Profiling Advisory Board (RIPA) to (1) eliminate racial and identity profiling and (2) improve diversity and racial and identity sensitivity in law enforcement. (State law defines racial and identity profiling as any use of

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actual or perceived race, color, ethnicity, national origin, age, religion, gender identity or expression, sexual orientation, or mental or physical disability by law enforcement when deciding whether to make a stop and what activities will ensue after a stop is made.) Under existing state law, law enforcement officers are generally prohibited from engaging in racial and identity profiling. RIPA is required to issue an annual report on its findings on the status of racial and identity profiling, as well as recommendations for eliminating such profiling. With the assistance of DOJ, the board is also required to (1) analyze citizen complaint data alleging racial or identity profiling reported by law enforcement to DOJ, (2) analyze the stop-related data reported by law enforcement to DOJ, (3) review the racial and identity profiling policies and practices in the state, and (4) conduct research related to bias and law enforcement stop tactics.

Proposal

This measure amends state law to eliminate (1) the existing requirement that CHP, city or county law enforcement agencies, and university education institution law enforcement agencies collect and report stop-related data annually to DOJ and (2) the requirement for RIPA to annually analyze and report on this.

Fiscal Impact

Impact on State and Local Law Enforcement Costs. This measure would reduce workload and costs for the various state and local law enforcement agencies that would otherwise be required to collect and report data on all stops to DOJ. The actual impact on a particular agency would depend on the extent to which the agency is collecting and reporting such data by the time the measure would take effect. Those agencies that are collecting data by this date would experience a reduction in existing workload and costs, while those agencies that are not collecting data by this date would avoid future workload and costs that they would have otherwise incurred.

Overall, the measure would have the following direct impacts on state and local law enforcement:

- ***Reduction in and Avoidance of Ongoing Costs.*** This measure would reduce ongoing costs for law enforcement agencies to collect, store, and report stop-related data, and for DOJ to store submitted data and assist RIPA with analysis of the data. We estimate that the ongoing reduction in and avoidance of such costs could be in the high tens of millions of dollars annually. The actual magnitude would depend primarily on how agencies comply with stop-related data collection requirements. Most of the reduced costs would potentially be redirected to other state and local law enforcement priorities.
- ***Potential Avoidance of One-Time Costs.*** The measure might also result in the avoidance of one-time costs for those law enforcement agencies that have not taken steps to facilitate the collection of data when this measure takes effect. Specifically, these costs would be related to technology improvements—such as purchasing equipment or modifying existing computer programs—that might be necessary to support the required data collection and reporting. The actual magnitude of these

costs would depend on various factors (such as each agency’s existing technology infrastructure and how each agency plans to collect and report stop-related data), but could range from relatively minor to the tens of millions of dollars.

Other Fiscal Impacts. The measure’s elimination of stop-related data collection and reporting could also have other fiscal impacts. For example, some state and local law enforcement agencies might otherwise have used the data to improve policing policies and practices, which could result in fewer citizen complaints of racial or identity profiling requiring investigation or leading to litigation. On the other hand, collected data could otherwise highlight racial or identity profiling practices in some agencies, which could result in more citizen complaints requiring investigation or leading to litigation. The net fiscal effect of these and other impacts are unknown.

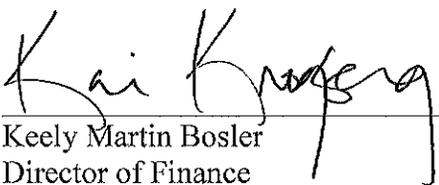
Summary of Fiscal Impact. We estimate that this measure could have the following major fiscal impacts on state and local governments.

- Reduction in and avoidance of ongoing state and local law enforcement costs—potentially in the high tens of millions of dollars annually—related to eliminating various stop-related data collection, reporting, and analysis requirements.
- Potential avoidance of one-time state and local law enforcement costs—ranging from relatively minor to the tens of millions of dollars—related to technology and equipment improvements.

Sincerely,

for 

Mac Taylor
Legislative Analyst

for 

Keely Martin Bosler
Director of Finance