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HOUSE BILL NO. 2504

Offered January 10, 2001

Prefiled January 10, 2001

A BILL to amend and reenact §§ 15.2-1704 and 52-4 of the Code of Virginia and to amend the Code of Virginia by adding sections numbered 8.01-226.2:1 and 52-4.01, relating to Virginia Racial Profiling and Report Statistics Act.

Patrons—Robinson, Abbitt and McEachin; Senators: Lambert and Miller, Y.B.

Referred to Committee on Militia and Police

Be it enacted by the General Assembly of Virginia:

1. That §§ 15.2-1704 and 52-4 of the Code of Virginia are amended and reenacted, and that the Code of Virginia is amended by adding sections numbered 8.01-226.2:1 and 52-4.01 as follows:

§ 8.01-226.2:1. Civil immunity for police officers participating in the Virginia Racial Profiling and Report Statistics Act.

Any police officer of a local police force or of the Department of State Police who participates in the collection and correlation of traffic data and information required in § 52-4.01 shall not be liable for any civil damages for acts or omissions on his part resulting from the stopping of alleged traffic offenders in the absence of gross negligence or willful misconduct.

§ 15.2-1704. Powers and duties of police force.

A. The police force of a locality is hereby invested with all the power and authority which that formerly belonged to the office of constable at common law and is responsible for the prevention and detection of crime, the apprehension of criminals, the safeguard of life and property, the preservation of peace and the enforcement of state and local laws, regulations, and ordinances.

B. A police officer has no authority in civil matters, except (i) to execute and serve temporary detention and emergency custody orders and any other powers granted to law-enforcement officers in § 37.1-67.01 or § 37.1-67.1, (ii) to serve an order of protection pursuant to §§ 16.1-253.1, 16.1-253.4 and 16.1-279.1, or (iii) to execute all warrants or summons as may be placed in his hands by any magistrate for the locality and to make due return thereof. A town police officer, after receiving training under subdivision 8 of § 9-170, may, with the concurrence of the local sheriff, also serve civil papers, and make return thereof, only when the town is the plaintiff and the defendant can be found within the corporate limits of the town.

C. The police force of a locality shall collect and correlate data regarding traffic stops, including the age, race, ethnicity, and gender of the alleged offender, and report such information on such forms and dates as the Superintendent of State Police shall require, as provided in § 52-4.01.

§ 52-4. Functions of Department.

The highway patrol, or state police patrol as it is sometimes called, the police school, the state police radio or communication system, the supervision of inspection stations and of inspectors of motor vehicles, the promotion of highway safety, the establishment and direction of a vehicle accident prevention and safety program for state agencies, the adoption of standards for motor vehicle appliances, accessories and safety devices and, the registration of machine guns, and the collection and correlation of data concerning traffic stops shall be in the Department of State Police. The collection and correlation of such information shall include the age, race, ethnicity, and gender of the alleged traffic offenders.

§ 52-4.01. Virginia Racial Profiling and Traffic Stops Reporting System established; duties of the Superintendent; reporting of local law enforcement agencies required.

A. With such funds as may be appropriated for this purpose, the Department of State Police shall establish the Virginia Racial Profiling and Traffic Stops Reporting System to collect and correlate data concerning the age, race, ethnicity, and gender of alleged offenders during traffic stops, including whether such persons were stopped, detained, or arrested as a result of the traffic stop, and whether a citation or warning was issued, for the purpose of determining whether a disproportionate number of minority persons are subjected to racial profiling and pretextual traffic stops. The Department shall analyze the data to determine whether a disproportionate number of racial and ethnic minority persons are stopped by Virginia state and local law-enforcement officers for alleged traffic violations on streets, roads, and highways in Virginia.

B. Each police officer of a locality and of the Department, during the course of his official duties, shall record (i) the age, race, ethnicity, and gender of each alleged traffic offender stopped and the specific reason for the traffic stop; (ii) whether such stop resulted in a search of the alleged offender,

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59 his passengers, the vehicle, and any other property belonging to the alleged offender and his
60 passengers; (iii) whether the alleged offender or his passengers were detained, questioned, charged with
61 an offense and released, or arrested, and whether a citation or warning was issued; and (iv) the specific
62 violation of law for which the arrest was made. The chief of police of the police force in each locality
63 shall report the collected and correlated traffic data and information for the locality to the
64 Superintendent of State Police. Police officers of the Department shall submit the traffic reports required
65 in this section to their commanding officer who shall forward such reports to the Superintendent. The
66 Superintendent shall require the police in the Department and of the police force in each locality to
67 report the traffic data and information required in subsection A on such forms and dates as he shall
68 determine.

69 C. The Superintendent shall cause the development of a mechanism for collecting, correlating,
70 analyzing, synthesizing, and validating any data and information generated from the reports required in
71 subsection A, and shall retain the data and information for two years. The Superintendent shall report
72 his findings and recommendations resulting from the analysis of the traffic data and information
73 annually to the Governor and the General Assembly, beginning on July 1, 2002.

74 D. The Superintendent may seek assistance to design the data collection system and to collect,
75 correlate, analyze, interpret, and report the results of the data, from any accredited public or private
76 institution of higher education in the Commonwealth or from an independent body having the
77 experience, staff expertise, and technical support capacity to conduct such research.

78 In designing the data collection system, the Superintendent shall ensure that the system designed to
79 collect and correlate the traffic data and information is technologically equipped to manage and
80 appropriate for data analysis to: (i) determine whether racial profiling or other characteristics are used
81 by law-enforcement agencies in the Commonwealth to identify alleged offenders for traffic stops; (ii)
82 develop a demographic profile of alleged traffic offenders who are stopped; (iii) ascertain whether
83 traffic stops in the Commonwealth, particularly along Interstate Route 95, involve primarily
84 African-American and other minority persons, and whether such persons were stopped, searched,
85 detained, had property seized, or arrested relative to how Caucasian persons compare in similar
86 circumstances; (iv) identify the reasons given by police officers for such stops and whether such persons
87 were charged with an offense and arrested, or whether a citation or warning was issued; (v) determine
88 whether African-American and other minority persons are advised of their constitutional rights under
89 the Fourth and Fourteenth Amendments to be free from unreasonable search and seizure; (vi) assess the
90 extent to which officers are knowledgeable of the constitutional rights of citizens; (vii) solicit the public's
91 perspectives regarding issues associated with racial profiling and pretextual traffic stops; (viii)
92 determine whether the African-American and other minority communities are aware of their
93 constitutional rights regarding search and seizure and equal protection under the law; and (ix) report
94 accurate interpretations and conclusions from the data to the House Committees on Transportation and
95 for Courts of Justice, the Senate Committees on Transportation and for Courts of Justice, and the
96 Governor and the 2002 Session of the General Assembly.

97 **2. That the provisions of this act shall expire on July 1, 2005.**