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SENATE BILL NO. 1075

Offered January 10, 2001

Prefiled January 10, 2001

A BILL to establish the Virginia Racial Profiling and Report Statistics Act.

Patrons—Maxwell; Delegates: Barlow, Baskerville, Crittenden and Larrabee

Referred to Committee on Transportation

Whereas, many people believe that society has declared war on drugs at the sacrifice of personal rights and freedom, having extended to federal, state, and local law-enforcement officers the authority to seize personal property under civil forfeiture laws and to make pretextual traffic stops and arrests, which have been affirmed in Whren et al. v. United States, 116 S. Ct. 1769 (1996); and

Whereas, although race is not an inherently suspicious characteristic, research studies reveal that race is a factor in probable cause and reasonable suspicion for pretextual traffic stops, arrests, and civil seizures involving thousands of African-Americans and other minorities; and

Whereas, African-Americans and other minorities have been stopped and searched on the pretext of failing to signal a lane change, switching lanes suddenly, following too close, driving too slow or too fast, driving with one tail light, acting nervous, looking suspicious, having an air freshener or remnant thereof on the rear view mirror, or violating some other arcane law; and

Whereas, nearly every adult African-American male—whether young or old, rich or poor, famous or infamous, professional or unskilled, privileged or common—can relate frightening, embarrassing, degrading, and dehumanizing experiences, which include: being stopped by police without cause and forced to suffer the humiliation of an unwarranted and illegal body search; having his vehicle dismantled along the roadside; forfeiting his property; having his clothing and possessions strewn about the highway, thus allowing a canine unit to relieve itself on his belongings; and being detained and subsequently released without any charges ever being filed, simply because he fits the racial profile of a drug dealer or courier; and

Whereas, young male African-Americans and Hispanics are especially vulnerable to such pretextual traffic stops due to certain racial profiling characteristics, such as driving late model or expensive cars, traveling at night and especially in the "wrong" part of town or in an affluent neighborhood, driving with two or more minority males in the car, "leaning," wearing gold jewelry, expensive clothing and dark glasses, having gold or diamond-studded teeth, sporting vogue or cultural hairstyles, listening to "hip-hop" and other loud music, and carrying beepers or being in possession of telephone numbers; and

Whereas, recent empirical studies and information regarding national arrest data indicate that African-Americans and other minorities are disproportionately selected for traffic stops where the attendant circumstances would not otherwise justify the stop, while white motorists under similar circumstances are allowed to travel undisturbed; and

Whereas, concerns have been expressed, especially by minority communities, regarding policies governing high-speed pursuits and the safety of such chases by law-enforcement officers, the efficacy and safety of using unmarked cars in routine traffic stops to police officers and the public, the increasing use of pretextual traffic stops to interdict drug traffickers, and the growing number of confiscations of personal property under the civil seizure laws; and

Whereas, discriminatory and unprofessional police conduct, such as allowing officers to impute criminal intent to citizens based solely on their race, denigrates such citizens as a group, perpetuates negative and false stereotypes, reinforces perceptions that such persons have an innate propensity toward crime, eviscerates their self respect, and breeds resentment and contempt for American justice and the law-enforcement community; now, therefore, be it

Be it enacted by the General Assembly of Virginia:

1. § 1. That the Virginia Racial Profiling and Report Statistics Act is established to collect data concerning the racial and ethnic identities of motorists stopped, detained, or arrested as a result of routine traffic stops, and to determine whether a disproportionate number of racial and ethnic minorities are subjected to such practices.

A. The Superintendent of State Police shall require each state police officer, during the course of his official duties regarding traffic stops, to record the race, ethnicity, gender, and age of each motorist stopped and the specific reason for the stop, when a routine traffic stop or a traffic stop for any traffic violation results in (i) a search of the motorist or his vehicle, (ii) the detaining of a motorist for questioning, or (iii) the charge or arrest of the motorist for the commission of an alleged criminal offense.

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59 *B. The Superintendent shall cause the development of a mechanism for collecting, analyzing,*
60 *synthesizing, and validating the data and statistics generated from the reports required in subsection A*
61 *and shall retain the data and statistics for two years. The Superintendent shall report his findings and*
62 *recommendations resulting from the analysis of the data and statistics annually to the Governor and the*
63 *General Assembly.*

64 *C. The Superintendent may seek assistance to design the data collection system and to analyze,*
65 *interpret, and report the results of the data from any accredited public or private institution of higher*
66 *education in the Commonwealth or from an independent body having the experience, staff expertise, and*
67 *technical support capacity to conduct such research.*

68 *In designing the data collection system, the Superintendent shall ensure that the mechanism or design*
69 *used to collect the data and statistics can provide adequate information to determine: (i) whether racial*
70 *profiling or other characteristics are used by law-enforcement agencies in the Commonwealth to identify*
71 *motorists for traffic stops; (ii) a profile of motorists in traffic stops; (iii) whether traffic stops in the*
72 *Commonwealth, particularly along Interstate Route 95, involve primarily African-American and other*
73 *minority motorists, and whether such motorists were stopped, searched, detained, or had property*
74 *seized, and how white motorists compare in similar circumstances; (iv) the reasons given by police for*
75 *such stops and whether charges were filed; (v) whether African-American and other minority motorists*
76 *are advised of their constitutional rights under the Fourth Amendment to be free from unreasonable*
77 *search and seizure; (vi) the extent to which officers are knowledgeable of the constitutional rights of*
78 *citizens; (vii) public perspectives regarding issues associated with racial profiling; (viii) whether*
79 *African-American and other minority populations are aware of their constitutional rights regarding*
80 *search and seizure; and (ix) accurate conclusions from the data.*

81 **2. That the provisions of this act shall expire on July 1, 2003.**