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HOUSE BILL NO. 2127

Offered January 14, 2015

Prefiled January 14, 2015

A BILL to amend the Code of Virginia by adding sections numbered 15.2-1609.10 and 15.2-1722.1 and by adding in Title 52 a chapter numbered 6.1, consisting of sections numbered 52-30.1 through 52-30.5, relating to the Virginia Biased-Based Profiling Statistics Reporting Act; report.

Patrons—Futrell, Plum and Rasoul

Referred to Committee on Militia, Police and Public Safety

Be it enacted by the General Assembly of Virginia:

1. That the Code of Virginia is amended by adding sections numbered 15.2-1609.10 and 15.2-1722.1 and by adding in Title 52 a chapter numbered 6.1, consisting of sections numbered 52-30.1 through 52-30.5, as follows:

§ 15.2-1609.10. Biased-based profiling.

A. No sheriff or deputy shall engage in biased-based profiling as defined in § 52-30.1 in the performance of his official duties.

B. The sheriff of every locality shall collect data pertaining to motor vehicle or investigatory stops pursuant to Chapter 6.1 (§ 52-30.1 et seq.) of Title 52 and report such data to the Department of State Police for inclusion in the Biased-Based Profiling Statistics Reporting Database. The sheriff shall be responsible for forwarding the data to the Superintendent of State Police.

§ 15.2-1722.1. Biased-based profiling.

A. No police officer shall engage in biased-based profiling as defined in § 52-30.1 in the performance of his official duties.

B. The police force of every locality shall collect data pertaining to motor vehicle or investigatory stops pursuant to Chapter 6.1 (§ 52-30.1 et seq.) of Title 52 and report such data to the Department of State Police for inclusion in the Biased-Based Profiling Statistics Reporting Database. The chief of police of the locality shall be responsible for forwarding the data to the Superintendent of State Police.

CHAPTER 6.1.**VIRGINIA BIASED-BASED PROFILING STATISTICS REPORTING ACT.****§ 52-30.1. Definition.**

For purposes of this chapter, "biased-based profiling" means the practice of targeting persons for suspected illegal activities using race, ethnicity, color, age, gender, or any combination thereof or other noncriminal characteristics as the sole criteria for the determination of probable cause and using traffic enforcement and investigatory stops as a pretext in the prevention and detection of crime, including the apprehension, detention, or arrest of persons, stops of motor vehicles for alleged traffic violations or investigatory purposes, search and seizure of property, or enforcement of state laws and regulations, or to conduct further investigation.

§ 52-30.2. Collection of data.

A. No police officer of the Department shall engage in biased-based profiling in the performance of his official duties.

B. Police officers of the Department shall collect data pertaining to motor vehicle or investigatory stops pursuant to this chapter to be reported into the Biased-Based Profiling Statistics Reporting Database. Police officers of the Department shall submit the data to their commanding officers, who shall forward it to the Superintendent.

§ 52-30.3. Biased-Based Profiling Statistics Reporting Database established.

A. The Department of State Police shall develop and implement a uniform statewide database to collect and analyze traffic and investigatory stop records and data and information submitted by police forces pursuant to §§ 15.2-1722.1 and 52-30.2. The data shall be analyzed to determine the existence and prevalence of the practice of biased-based profiling. The Department shall maintain all records relating to the analysis, validation, and interpretation of such data. The Superintendent may seek assistance in designing the statewide database from any accredited public or private institution of higher education in the Commonwealth or from an independent body having the experience, staff expertise, and technical support capability to conduct such research.

B. Data collected shall include, by locality, (i) the number of persons stopped for traffic violations or investigatory purposes; (ii) the race, ethnicity, color, age, and gender of the person stopped; (iii) the specific alleged traffic violation that resulted in the stop; (iv) whether a warning, written citation, or summons was issued or whether any person was arrested; and (v) whether the vehicle or any persons

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59 were searched.

60 C. In designing the uniform statewide database, the Superintendent shall ensure that the system shall
61 manage and process the data for analysis to (i) determine the extent to which biased-based profiling is
62 used by state and local police officers in the Commonwealth to identify persons for alleged traffic
63 violations or investigatory purposes; (ii) develop a demographic profile of persons who are stopped for
64 alleged traffic violations or investigatory purposes; (iii) ascertain whether traffic and investigatory stops
65 in the Commonwealth involve primarily racial and ethnic minorities and compare the rate at which such
66 persons were stopped, searched, detained, or arrested or had property seized with the rate at which
67 Caucasian persons were subjected to such actions; (iv) identify the reasons given by police officers for
68 such stops and whether such persons were charged with an offense, detained, arrested, or issued a
69 warning or written citation; (v) determine whether racial and ethnic minorities were advised of their
70 constitutional rights under the Fourth and Fourteenth Amendments to be free from unreasonable search
71 and seizure by state and local police officers conducting traffic and investigatory stops; (vi) assess the
72 extent to which state and local police officers are knowledgeable of the constitutional rights of citizens;
73 (vii) solicit the public's perspectives regarding issues associated with biased-based profiling and
74 pretextual traffic and investigatory stops; (viii) determine whether racial and ethnic minorities are aware
75 of their constitutional rights regarding search and seizure and equal protection under the law; and (ix)
76 reach accurate interpretations and conclusions based on the reported data.

77 **§ 52-30.4. Duties of the Superintendent; reporting of local police forces and sheriffs required.**

78 The police force and sheriff's office in each locality and the Department shall collect and analyze the
79 data specified in subsection B of § 52-30.3, and any other data as may be specified by the Department,
80 on forms developed by the Department.

81 If the Superintendent determines that a local police force or sheriff's office has failed or refused to
82 report the required data to the Department, the Superintendent shall notify the attorney for the
83 Commonwealth of the county or city in which the police force or sheriff's office is located. If the
84 Superintendent determines that police officers of the Department have failed to comply with the
85 provisions of this chapter, the Superintendent shall utilize such disciplinary procedures as may be
86 authorized by state law or the regulations of the Department to enforce compliance with this chapter.

87 **§ 52-30.5. Annual report.**

88 The Superintendent shall annually report the findings and recommendations resulting from the
89 collection, analysis, and interpretation of the data from the Biased-Based Profiling Statistics Reporting
90 Database to the Governor, the General Assembly, and the Attorney General of Virginia beginning July
91 1, 2016. A copy of the Superintendent's report shall also be provided to each attorney for the
92 Commonwealth of the county or city in which a reporting police force is located.