



House of Representatives

File No. 768

General Assembly

January Session, 2003

(Reprint of File Nos. 180 and 694)

Substitute House Bill No. 5674
As Amended by House
Amendment Schedule "A"

Approved by the Legislative Commissioner
May 23, 2003

AN ACT CONCERNING THE ALVIN W. PENN RACIAL PROFILING PROHIBITION ACT.

Be it enacted by the Senate and House of Representatives in General Assembly convened:

1 Section 1. Section 54-1m of the general statutes is repealed and the
2 following is substituted in lieu thereof (*Effective from passage*):

3 (a) Not later than January 1, 2000, each municipal police department
4 and the Department of Public Safety shall adopt a written policy that
5 prohibits the stopping, detention or search of any person when such
6 action is solely motivated by considerations of race, color, ethnicity,
7 age, gender or sexual orientation, and the action would constitute a
8 violation of the civil rights of the person.

9 (b) Commencing on January 1, 2000, each municipal police
10 department and the Department of Public Safety shall, using the form
11 developed and promulgated pursuant to subsection (i) of this section,
12 record and retain the following information: (1) The number of persons
13 stopped for traffic violations; (2) characteristics of race, color, ethnicity,
14 gender and age of such persons, provided the identification of such

15 characteristics shall be based on the observation and perception of the
16 police officer responsible for reporting the stop and the information
17 shall not be required to be provided by the person stopped; (3) the
18 nature of the alleged traffic violation that resulted in the stop; (4)
19 whether a warning or citation was issued, an arrest made or a search
20 conducted as a result of the stop; and (5) any additional information
21 that such municipal police department or the Department of Public
22 Safety, as the case may be, deems appropriate, provided such
23 information does not include any other identifying information about
24 any person stopped for a traffic violation such as the person's
25 operator's license number, name or address.

26 (c) Each municipal police department and the Department of Public
27 Safety shall provide to the Chief State's Attorney and the African-
28 American Affairs Commission (1) a copy of each complaint received
29 pursuant to subsections (a) to (h), inclusive, of this section, and (2)
30 written notification of the review and disposition of such complaint.
31 No such complaint shall contain any other identifying information
32 about the complainant such as his or her operator's license number,
33 name or address.

34 (d) Any police officer who in good faith records traffic stop
35 information pursuant to the requirements of subsections (a) to (h),
36 inclusive, of this section shall not be held civilly liable for the act of
37 recording such information unless the officer's conduct was
38 unreasonable or reckless.

39 (e) If a municipal police department or the Department of Public
40 Safety fails to comply with the provisions of subsections (a) to (h),
41 inclusive, of this section, the Chief State's Attorney may recommend
42 and the Secretary of the Office of Policy and Management may order
43 an appropriate penalty in the form of the withholding of state funds
44 from such department or the Department of Public Safety.

45 (f) On or before October 1, 2000, and annually thereafter, each
46 municipal police department and the Department of Public Safety shall

47 provide to the Chief State's Attorney and the African-American Affairs
48 Commission, in such form as the Chief State's Attorney shall prescribe,
49 a summary report of the information recorded pursuant to subsection
50 (b) of this section.

51 (g) The [Chief State's Attorney shall, within the limits of existing
52 appropriations, provide for a] African-American Affairs Commission
53 shall review [of] the prevalence and disposition of traffic stops and
54 complaints reported pursuant to subsections (a) to (h), inclusive, of this
55 section. Not later than January 1, [2002] 2004, and annually thereafter,
56 the [Chief State's Attorney] African-American Affairs Commission
57 shall report to the Governor, [and] the General Assembly and to any
58 other entity said commission deems appropriate the results of such
59 review, including any recommendations.

60 [(h) The provisions of subsections (f) and (g) of this section shall be
61 in effect from October 1, 1999, until January 1, 2003.]

62 [(i) (h) Not later than January 1, 2000, the Chief State's Attorney, in
63 conjunction with the Commissioner of Public Safety, the Attorney
64 General, the Chief Court Administrator, the Police Officer Standards
65 and Training Council, the Connecticut Police Chiefs Association and
66 the Connecticut Coalition of Police and Correctional Officers, shall
67 develop and promulgate: (1) A form, in both printed and electronic
68 format, to be used by police officers when making a traffic stop to
69 record [personal identifying information about] the race, color,
70 ethnicity, gender and age of the operator of the motor vehicle that is
71 stopped, the location of the stop, the reason for the stop and other
72 information that is required to be recorded pursuant to subsection (b)
73 of this section; and (2) a form, in both printed and electronic format, to
74 be used to report complaints pursuant to subsections (a) to (h),
75 inclusive, of this section by persons who believe they have been
76 subjected to a motor vehicle stop by a police officer solely on the basis
77 of their race, color, ethnicity, age, gender or sexual orientation.

78 Sec. 2. Section 54-11 of the general statutes is repealed and the

79 following is substituted in lieu thereof (*Effective from passage*):

80 (a) This section and section 54-1m, as amended by this act, shall be
81 known as the "Alvin W. Penn Racial Profiling Prohibition Act".

82 [(a)] (b) For the purposes of this section, "racial profiling" means the
83 detention, interdiction or other disparate treatment of an individual
84 solely on the basis of the racial or ethnic status of such individual.

85 [(b)] (c) No member of the Division of State Police within the
86 Department of Public Safety, a municipal police department or any
87 other law enforcement agency shall engage in racial profiling. The
88 detention of an individual based on any noncriminal factor or
89 combination of noncriminal factors is inconsistent with this policy.

90 [(c)] (d) The race or ethnicity of an individual shall not be the sole
91 factor in determining the existence of probable cause to place in
92 custody or arrest an individual or in constituting a reasonable and
93 articulable suspicion that an offense has been or is being committed so
94 as to justify the detention of an individual or the investigatory stop of a
95 motor vehicle.

This act shall take effect as follows:	
Section 1	<i>from passage</i>
Sec. 2	<i>from passage</i>

The following fiscal impact statement and bill analysis are prepared for the benefit of members of the General Assembly, solely for the purpose of information, summarization, and explanation, and do not represent the intent of the General Assembly or either House thereof for any purpose:

OFA Fiscal Note

State Impact:

Agency Affected	Fund-Type	FY 04 \$	FY 05 \$
Afr.-Amer. Affairs Com.	GF - None	None	None

Note: GF=General Fund

Municipal Impact: None

Explanation

By January 1, 2004 and annually thereafter, the African-American Commission must review and report to the Governor and to the General Assembly results of traffic stops and complaints. The bill also names general statutes Sections 54-1l (Prohibition Against Racial Profiling) and 54-1m (Adoption of Policy Prohibiting Certain Police Actions. Data Collection and Reporting), the Alvin W. Penn Racial Profiling Prohibition Act.

Any workload increase experienced by the African-American Commission can be handled by staff without the need for an additional appropriation.

House "A" which makes the substantive changes mentioned above and other technical changes will have no fiscal impact.

OLR Bill Analysis

sHB 5674 (as amended by House "A")*

AN ACT CONCERNING RACIAL PROFILING**SUMMARY:**

This bill requires local police departments and the State Police to give annual traffic stop reports to the African-American Affairs Commission (AAAC) pursuant to the racial profiling law. It also reinstates the requirement (which was in effect until January 1, 2003) to give annual reports to the chief state's attorney. It requires the AAAC to (1) review the traffic stop data and (2) annually, beginning January 1, 2004, report its review results and recommendations to the governor, legislature, and other entities it deems appropriate. (A provision requiring the chief state's attorney to conduct the reviews and provide one report expired in January 2003.)

The bill bars police from recording, in traffic-stop forms and complaints about discriminatory stops, certain personally identifying information about people stopped. This includes the person's driver's license number, name, or address. The bill does not affect the recording of non-personally identifying characteristics such as age, race, color, ethnicity, and gender, which current law requires.

It names the law that bans racial profiling "The Alvin Penn Racial Profiling Prohibition Act."

*House Amendment "A" (1) requires that police give traffic stop data to the AAAC and chief state's attorney instead of the Commission on Human Rights and Opportunities (CHRO), (2) requires AAAC to review data and provide reports, (3) bars the police from recording certain personally identifying information, and (4) names the law after the late Senator Alvin Penn.

EFFECTIVE DATE: Upon passage

BACKGROUND

Racial Profiling Law and Traffic Stop Data

This law prohibits police and law enforcement agencies from engaging in racial profiling, defined as the detention, interdiction, or other disparate treatment of someone solely because of his race or ethnicity. It requires the State Police and local police departments to adopt written policies that prohibit race-based traffic stops. The law requires them to collect and record the following traffic stop data:

1. the number and identifying characteristics (age, race, color, ethnicity, and gender) of people stopped for traffic violations;
2. the alleged traffic violation that led to the stop;
3. whether any arrest was made, search conducted, or warning or citation issued; and
4. additional information police consider appropriate.

Originally, the law required police to give the chief state's attorney this information along with copies of complaints they get about discriminatory stops and written notices of the reviews and dispositions.

The provision requiring police to give traffic-stop data to the chief state's attorney is no longer in effect. Also no longer in effect is the provision requiring the chief state's attorney, within existing appropriations, to (1) review the data on traffic stops and complaints to determine the prevalence and disposition of discriminatory stops and related complaints and (2) report his review results, including recommendations, to the governor and legislature by January 1, 2002. Both provisions were in effect until January 2003.

Racial Profiling Study

In December 2001, the chief state's attorney published the racial profiling report required by law, based on July 1, 2000 through June 30, 2001 data.

Legislative History

On April 9, the House referred the bill to the Appropriations

Committee, which deleted a requirement in the original bill for CHRO to seek funding to analyze the data it gets from the chief state's attorney and make recommendations based on the analysis.

COMMITTEE ACTION

Public Safety Committee

Joint Favorable Substitute

Yea 22 Nay 0

Appropriations Committee

Joint Favorable Substitute

Yea 40 Nay 9