



House of Representatives

General Assembly

File No. 622

January Session, 2015

Substitute House Bill No. 5437

House of Representatives, April 14, 2015

The Committee on Judiciary reported through REP. TONG of the 147th Dist., Chairperson of the Committee on the part of the House, that the substitute bill ought to pass.

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 Section 54-1l of the general statutes is repealed and the
2 following is substituted in lieu thereof (*Effective October 1, 2015*):

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

5 (b) For the purposes of this section, "racial profiling" means the
6 detention, interdiction or other disparate treatment of an individual
7 solely on the basis of the racial or ethnic status of such individual.

8 (c) No member of the Division of State Police within the Department
9 of Emergency Services and Public Protection, a municipal police
10 department or any other law enforcement agency shall engage in racial
11 profiling. The detention of an individual based on any noncriminal
12 factor or combination of noncriminal factors is inconsistent with this

13 policy.

14 (d) The race or ethnicity of an individual shall not be the sole factor
15 in determining the existence of probable cause to place in custody or
16 arrest an individual or in constituting a reasonable and articulable
17 suspicion that an offense has been or is being committed so as to justify
18 the detention of an individual or the investigatory stop of a motor
19 vehicle.

20 (e) Any individual who believes that such individual has been
21 subjected to a discriminatory practice, as defined in section 46a-51, as
22 amended by this act, including racial profiling or in violation of the
23 standardized method implemented pursuant to section 54-1m, as
24 amended by this act, may file a complaint with the Commission on
25 Human Rights and Opportunities pursuant to section 46a-82.

26 Sec. 2. Section 54-1m of the general statutes is repealed and the
27 following is substituted in lieu thereof (*Effective July 1, 2015*):

28 (a) Each municipal police department, the Department of
29 Emergency Services and Public Protection and any other department
30 with authority to conduct a traffic stop shall adopt a written policy that
31 prohibits the stopping, detention or search of any person when such
32 action is solely motivated by considerations of race, color, ethnicity,
33 age, gender or sexual orientation, and such action would constitute a
34 violation of the civil rights of the person. For the purposes of this
35 section: (1) "Department with authority to conduct a traffic stop"
36 means any department that includes, or has oversight of, a police
37 officer, and (2) "police officer" means a police officer within a
38 municipal police department or the Department of Emergency Services
39 and Public Protection or a person with the same authority pursuant to
40 any provision of the general statutes to make arrests or issue citations
41 for violation of any statute or regulation relating to motor vehicles and
42 to enforce said statutes and regulations as policemen or state
43 policemen have in their respective jurisdictions, including, but not
44 limited to: (A) Special policemen or state policemen acting under the
45 provisions of section 29-18, 17a-24 or 17a-465; (B) policemen acting

46 under the provisions of section 29-19; (C) the Commissioner of Motor
47 Vehicles, each deputy commissioner of the Department of Motor
48 Vehicles and any salaried inspector of motor vehicles designated by
49 the commissioner pursuant to section 14-8; (D) State Capitol Police
50 officers acting under the provisions of section 2-1f; (E) special police
51 forces acting under the provisions of section 10a-156b; (F) state
52 policemen acting under the provisions of section 27-107; and (G) fire
53 police officers acting under the provisions of section 7-313a.

54 (b) Not later than July 1, [2013] 2016, the Office of Policy and
55 Management, in consultation with the Racial Profiling Prohibition
56 Project Advisory Board established in section 54-1s, and the Criminal
57 Justice Information System Governing Board shall, within available
58 resources, develop and implement a standardized method:

59 (1) To be used by police officers of municipal police departments,
60 the Department of Emergency Services and Public Protection and any
61 other department with authority to conduct a traffic stop to
62 electronically record traffic stop information unless the police officer is
63 required to leave the location of the stop prior to completing [such] an
64 electronic form in order to respond to an emergency or due to some
65 other exigent circumstance within the scope of such police officer's
66 duties. (A) The standardized method and any electronic form
67 developed and implemented pursuant to such standardized method
68 shall allow the following information to be recorded: [(A)] (i) The date
69 and time of [the] each stop, including any stop for which no warning,
70 citation or summons was issued or no custodial arrest was made; [(B)]
71 (ii) the specific geographic location of the stop; [(C)] (iii) the unique
72 identifying number of the police officer making the stop, or the name
73 and title of the person making the stop if such person does not have a
74 unique identifying number; [(D)] (iv) the race, color, ethnicity, age and
75 gender of the operator of the motor vehicle that is stopped, provided
76 the identification of such characteristics shall be based on the
77 observation and perception of the police officer responsible for
78 reporting the stop; [(E)] (v) the nature of the alleged traffic violation or
79 other violation that caused the stop to be made and the statutory

80 citation for such violation; [(F)] (vi) the disposition of the stop
81 including whether a warning, citation or summons was issued,
82 whether a search was conducted, the authority for any search
83 conducted, the result of any search conducted, the statute or regulation
84 citation for any warning, citation or summons issued and whether a
85 custodial arrest was made; and [(G)] (vii) any other information
86 deemed appropriate. (B) The method shall also provide for the
87 printing of a receipt to be given to the person stopped that shall
88 include the traffic stop information recorded pursuant to this
89 subdivision, and, in English and Spanish, (i) a notice [to be given to the
90 person stopped] providing that if such person believes that such
91 person has been stopped, detained or subjected to a search solely
92 because of race, color, ethnicity, age, gender, sexual orientation,
93 religion or membership in any other protected class, such person may
94 file a complaint with the appropriate law enforcement agency, [unless
95 the police officer was required to leave the location of the stop prior to
96 providing such notice in order to respond to an emergency or due to
97 some other exigent circumstance within the scope of such police
98 officer's duties,] and (ii) instructions [to be given to the person
99 stopped] on how to file such complaint, unless the police officer was
100 required to leave the location of the stop prior to providing such
101 [instructions] printed receipt in order to respond to an emergency or
102 due to some other exigent circumstance within the scope of such police
103 officer's duties;

104 (2) To be used to report complaints pursuant to this section by any
105 person who believes such person has been subjected to a motor vehicle
106 stop by a police officer solely on the basis of race, color, ethnicity, age,
107 gender, sexual orientation or religion; and

108 (3) To be used by each municipal police department, the
109 Department of Emergency Services and Public Protection and any
110 other department with authority to conduct a traffic stop to report data
111 to the Office of Policy and Management pursuant to subsection (h) of
112 this section.

113 (c) Not later than July 1, [2013] 2016, the Office of Policy and
114 Management, in consultation with the Racial Profiling Prohibition
115 Project Advisory Board, shall develop and implement guidelines to be
116 used by each municipal police department, the Department of
117 Emergency Services and Public Protection and any other department
118 with authority to conduct a traffic stop in (1) training police officers of
119 such agency in the completion of the electronic form developed and
120 implemented pursuant to subdivision (1) of subsection (b) of this
121 section, and (2) evaluating the information collected by police officers
122 of such municipal police department, the Department of Emergency
123 Services and Public Protection or other department with authority to
124 conduct a traffic stop pursuant to subsection (e) of this section for use
125 in the counseling and training of such police officers.

126 (d) (1) Prior to the date a standardized method and electronic form
127 have been developed and implemented pursuant to subdivision (1) of
128 subsection (b) of this section, each municipal police department, the
129 Department of Emergency Services and Public Protection and any
130 other department with authority to conduct a traffic stop shall [, using]
131 use the form developed and promulgated pursuant to the provisions
132 of subdivision (1) of subsection [(h)] (b) of this section in effect on
133 [January 1, 2012, record and retain the following information: (A) The
134 number of persons stopped for traffic violations; (B) characteristics of
135 race, color, ethnicity, gender and age of such persons, provided the
136 identification of such characteristics shall be based on the observation
137 and perception of the police officer responsible for reporting the stop
138 and the information shall not be required to be provided by the person
139 stopped; (C) the nature of the alleged traffic violation that resulted in
140 the stop; (D) whether a warning or citation was issued, an arrest made
141 or a search conducted as a result of the stop; and (E)] June 30, 2015,
142 and include any additional information that such municipal police
143 department, the Department of Emergency Services and Public
144 Protection or any other department with authority to conduct a traffic
145 stop, as the case may be, deems appropriate, provided such
146 information shall not include any other identifying information about
147 any person stopped for a traffic violation such as the person's

148 operator's license number, name or address.

149 (2) On and after the date a standardized method and electronic form
150 have been developed and implemented pursuant to subdivision (1) of
151 subsection (b) of this section, each municipal police department, the
152 Department of Emergency Services and Public Protection and any
153 other department with authority to conduct a traffic stop shall record
154 and retain the information required to be recorded pursuant to such
155 standardized method and any additional information that such
156 municipal police department or the Department of Emergency Services
157 and Public Protection or other department with authority to conduct a
158 traffic stop, as the case may be, deems appropriate, provided such
159 information shall not include any other identifying information about
160 any person stopped for a traffic violation such as the person's
161 operator's license number, name or address.

162 (e) Each municipal police department, the Department of
163 Emergency Services and Public Protection and any other department
164 with authority to conduct a traffic stop shall provide to the Chief
165 State's Attorney and the Office of Policy and Management (1) a copy of
166 each complaint received pursuant to this section, and (2) written
167 notification of the review and disposition of such complaint. No copy
168 of such complaint shall include any other identifying information
169 about the complainant such as the complainant's operator's license
170 number, name or address.

171 (f) Any police officer who in good faith records traffic stop
172 information pursuant to the requirements of this section shall not be
173 held civilly liable for the act of recording such information unless the
174 officer's conduct was unreasonable or reckless.

175 (g) If a municipal police department, the Department of Emergency
176 Services and Public Protection or any other department with authority
177 to conduct a traffic stop fails to comply with the provisions of this
178 section, the Office of Policy and Management shall recommend and
179 the Secretary of the Office of Policy and Management may order an
180 appropriate penalty in the form of the withholding of state funds from

181 such municipal police department, the Department of Emergency
182 Services and Public Protection or such other department with
183 authority to conduct a traffic stop.

184 (h) Not later than October 1, 2012, each municipal police department
185 and the Department of Emergency Services and Public Protection shall
186 provide to the Office of Policy and Management a summary report of
187 the information recorded pursuant to subsection (d) of this section. On
188 and after October 1, 2013, each municipal police department, the
189 Department of Emergency Services and Public Protection and any
190 other department with authority to conduct a traffic stop shall provide
191 to the Office of Policy and Management a monthly report of the
192 information recorded pursuant to subsection (d) of this section for each
193 traffic stop conducted, in a format prescribed by the Office of Policy
194 and Management. On and after January 1, 2015, such information shall
195 be submitted in electronic form, and shall be submitted in electronic
196 form prior to said date to the extent practicable.

197 (i) The Office of Policy and Management shall, within available
198 resources, review the prevalence and disposition of traffic stops and
199 complaints reported pursuant to this section. Not later than July 1,
200 2014, and annually thereafter, the office shall report the results of any
201 such review, including any recommendations, to the Governor, the
202 General Assembly and any other entity deemed appropriate.

203 (j) Not later than January 1, 2014, the Office of Policy and
204 Management shall submit a report to the joint standing committees of
205 the General Assembly having cognizance of matters relating to the
206 judiciary and public safety, and to the African-American Affairs
207 Commission, the Latino and Puerto Rican Affairs Commission and the
208 Black and Puerto Rican Caucus of the General Assembly, on the
209 office's progress in developing a standardized method and guidelines
210 pursuant to this section. Such report may include recommendations
211 for amendments to this section.

212 (k) Not later than October 1, 2015, the Office of Policy and
213 Management shall provide to the Commissioner of Motor Vehicles a

214 copy of the notice and instructions provided pursuant to subparagraph
215 (B) of subdivision (1) of subsection (b) of this section, for inclusion by
216 said commissioner in any notification mailed pursuant to subsection
217 (d) of section 14-41, as amended by this act.

218 Sec. 3. Subsection (d) of section 14-41 of the general statutes is
219 repealed and the following is substituted in lieu thereof (*Effective*
220 *January 1, 2016*):

221 (d) The commissioner may, at least fifteen days before the date on
222 which each motor vehicle operator's license or identity card expires,
223 notify the holder of such license or identity card of the expiration date,
224 in a manner determined by the commissioner. Any such notification
225 shall include a copy of the notice and instructions described in
226 subparagraph (B) of subdivision (1) of subsection (b) of section 54-1m,
227 as amended by this act. The commissioner shall not provide such
228 notification by mail to any such licensee or identity card holder if the
229 United States Postal Service has determined that mail is undeliverable
230 to the address for such person that is documented in the records of the
231 Department of Motor Vehicles. Any previously licensed operator who
232 operates a motor vehicle within sixty days after the expiration date of
233 the operator's license without obtaining a renewal of the license shall
234 be fined in accordance with the amount designated for the infraction of
235 failure to renew a motor vehicle operator's license. Any operator so
236 charged shall not be prosecuted under section 14-36 for the same act
237 constituting a violation under this section but section 14-36 shall apply
238 after the sixty-day period.

239 Sec. 4. Subdivision (8) of section 46a-51 of the general statutes is
240 repealed and the following is substituted in lieu thereof (*Effective*
241 *October 1, 2015*):

242 (8) "Discriminatory practice" means a violation of section 4a-60, 4a-
243 60a, 4a-60g, 46a-58, 46a-59, 46a-60, 46a-64, 46a-64c, 46a-66, 46a-68, 46a-
244 68c to 46a-68f, inclusive, or 46a-70 to 46a-78, inclusive, subsection (a) of
245 section 46a-80, [or] sections 46a-81b to 46a-81o, inclusive, section 54-1l,
246 as amended by this act, or of the standardized method implemented

247 pursuant to section 54-1m, as amended by this act;

248 Sec. 5. (*Effective July 1, 2015*) Not later than June 30, 2016, each
 249 municipal police department, the Department of Emergency Services
 250 and Public Protection and any other department with authority to
 251 conduct a traffic stop may submit an application to the Office of Policy
 252 and Management, in a manner determined by the secretary of said
 253 office, for reimbursement of the costs associated with equipping any
 254 police officer's vehicle with an electronic device for the purposes of
 255 completing the electronic form pursuant to subdivision (1) of
 256 subsection (b) of section 54-1m, as amended by this act, and printing
 257 the receipt described in subparagraph (B) of said subdivision. The
 258 Office of Policy and Management shall reimburse the applicant for any
 259 such costs that said office deems reasonable.

260 Sec. 6. (*Effective July 1, 2015*) The sum of two million five hundred
 261 thousand dollars is appropriated to the Office of Policy and
 262 Management, from the General Fund, for the fiscal year ending June
 263 30, 2016, for reimbursement provided pursuant to section 5 of this act.

This act shall take effect as follows and shall amend the following sections:		
Section 1	<i>October 1, 2015</i>	54-1l
Sec. 2	<i>July 1, 2015</i>	54-1m
Sec. 3	<i>January 1, 2016</i>	14-41(d)
Sec. 4	<i>October 1, 2015</i>	46a-51(8)
Sec. 5	<i>July 1, 2015</i>	New section
Sec. 6	<i>July 1, 2015</i>	New section

Statement of Legislative Commissioners:

In Section 2(d)(1), "include" was added for clarity.

JUD *Joint Favorable Subst. -LCO*

The following Fiscal Impact Statement and Bill Analysis are prepared for the benefit of the members of the General Assembly, solely for purposes of information, summarization and explanation and do not represent the intent of the General Assembly or either chamber thereof for any purpose. In general, fiscal impacts are based upon a variety of informational sources, including the analyst's professional knowledge. Whenever applicable, agency data is consulted as part of the analysis, however final products do not necessarily reflect an assessment from any specific department.

OFA Fiscal Note

State Impact:

Agency Affected	Fund-Effect	FY 16 \$	FY 17 \$
Various State Agencies	GF - Cost	Less than \$1,500 per Police Officer	Less than \$1,500 per Police Officer
Motor Vehicle Dept.	GF - Cost	Less than \$25,000	Less than \$25,000
Policy & Mgmt., Off.	GF - Cost	Less than \$2.7 million	None

Note: GF=General Fund

Municipal Impact:

Municipalities	Effect	FY 16 \$	FY 17 \$
Various Municipalities	STATE MANDATE - Cost	Less than \$1,500 per Police Officer	Less than \$1,500 per Police Officer

Explanation

The bill modifies the Alvin W. Penn Racial Profiling Prohibition Act by expanding data collection and submission requirements, providing a complaint review process, and modifying certain notifications. The bill also creates an equipment cost reimbursement program, administered by the Office of Policy and Management (OPM), and appropriates \$2.5 million for the program in FY 16.

There is a potential cost associated with revising the standardized method law enforcement officers must use for recording traffic stop information. Costs could be as high as \$200,000 for OPM to hire a consultant to assist in the development of an electronic method of recording traffic stop information.

As OPM currently administers several programs that provide reimbursements to municipalities, it is anticipated that OPM could

administer the additional, similar program required under the bill's provisions with no fiscal impact.

Requiring all state and municipal police officers to use an electronic method of recording traffic stop information that provides a receipt with multi-lingual instructions is anticipated to result in a cost to both state and municipal police departments. The cost to each department will be dependent upon the number of officers employed and equipment upgrade needs but is estimated to be less than \$1,500 per officer. In Connecticut there are approximately 8,000 currently employed state and municipal police officers.

In addition, the bill requires the Department of Motor Vehicles (DMV) to include certain information in notifications mailed to licensees. There is anticipated to be a cost to DMV of less than \$25,000 annually arising from this provision.

There is not anticipated to be any cost to the Commission on Human Rights and Opportunities arising from its role as the recipient of complaints involving racial profiling and related discriminatory practices. The anticipated volume of complaints is expected to be investigated and resolved within existing agency capacity.

The Out Years

The annualized ongoing fiscal impact identified above would continue into the future subject to inflation.

OLR Bill Analysis

sHB 5437

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

SUMMARY:

This bill makes changes to the existing standardized method used by law enforcement officers and certain other officers when conducting traffic stops. Among other things, it requires:

1. the Office of Policy and Management (OPM) to, (a) by July 1, 2016, develop a printable electronic form, with accompanying training and evaluation guidelines; (b) translate the existing motorists' notice and complaint instructions into Spanish; and (c) provide, by October 1, 2015, the notice and instructions to the Department of Motor Vehicle (DMV) commissioner;
2. the DMV commissioner to, starting January 1, 2016, include such notice and instruction in each motor vehicle operator's license or identity card renewal notification; and
3. law enforcement officers and other officers authorized to conduct traffic stops (see BACKGROUND) to (a) electronically record traffic stop information for all stops, (b) give each person stopped a printed receipt, and (c) use the existing paper form until the electronic form has been developed and implemented.

The bill allows municipal departments, Department of Emergency Services and Public Protection (DESPP), and other such departments to request, by June 30, 2016, reimbursement from OPM for the costs of installing, in police cars, electronic devices for recording and printing traffic stop data. The bill appropriates, for FY 16, \$2.5 million to OPM for the reimbursement of reasonable costs.

The bill also allows anyone who believes he or she has been subject to racial profiling or a violation of the standardized method to file a complaint with the Commission on Human Rights and Opportunities (CHRO).

EFFECTIVE DATE: July 1, 2015 except the (1) provisions on CHRO's authority to act on discriminatory practices are effective October 1, 2015 and (2) DMV's notification requirement is effective January 1, 2016.

OPM REQUIREMENTS

The bill requires OPM, within available resources, to revise the standardized method, by July 1, 2016, in consultation with the Racial Profiling Prohibition Project Advisory Board and Criminal Justice Information System Governing Board. OPM must develop:

1. an electronic form to replace the existing paper form law enforcement officers and other officers authorized to conduct traffic stops use to record traffic stop information,
2. a Spanish version of the existing notice and complaint instructions given to each person stopped,
3. a method for printing the recorded traffic stop information and the required notice and instructions, and
4. guidelines to train officers to complete the electronic form and evaluate the information collected for counseling and officer training.

OFFICERS' REQUIREMENTS

Recorded Traffic Stop Information

The bill requires officers who conduct traffic stops to electronically record the statutorily required information for all stops, including those for which no warning, citation, or summons was issued or custodial arrest made. As under existing law, the bill excuses an officer from recording this information if he or she had to leave the

location to respond to an emergency or due to exigent circumstances within the scope of his or her duties.

By law, officers are required to record the following information:

1. the date, time, and geographic location of the stop;
2. the driver's race, color, ethnicity, age, and gender, with the characteristics based on the officer's observation and perception;
3. the officer's unique identifying number or name and title if he or she does not have a number;
4. the nature of the alleged traffic violation or other violation that caused the stop and the statutory citation for such violation;
5. the disposition of the stop including whether a warning, citation, or summons was issued, search was conducted, or arrest made;
6. the statutory or regulatory citation for any warning, citation, or summons issued and the authority for any search conducted; and
7. any other appropriate information.

Notice and Complaint Instructions

The bill requires the officers to give the people stopped a printed receipt with the recorded traffic stop information and Spanish and English versions of the notice and complaint instructions. As under existing law, the bill excuses an officer from providing this information if he or she had to leave the location to respond to an emergency or due to exigent circumstances within the scope of his or her duties.

Under existing law, law enforcement officers and other officers authorized to conduct traffic stops must give notice to the person stopped that he or she may file a complaint with the appropriate law enforcement agency along with instructions of how to do so, if the

person believes the stop, detention, or search was solely because of his or her race, color, ethnicity, age, gender, sexual orientation, religion, or other protected class membership.

Existing Paper Form and Method

The bill requires officers to use the existing paper form and method, until the electronic form has been developed and implemented, to record appropriate information, excluding identifying information. Until the electronic form has been developed and implemented, the bill suspends the requirement for officers to retain the information collected. However, they must do so for certain periods of time to comply with existing reporting requirements.

CHRO'S AUTHORITY REGARDING DISCRIMINATORY PRACTICES

The bill broadens CHRO's authority to investigate and proceed on cases involving discriminatory practices. It does so by expanding the definition of "discriminatory practice" to include racial profiling or a violation of the standardized method for traffic stops. By law, anyone who believes he or she has been subject to a discriminatory practice may file a complaint with CHRO.

BACKGROUND

Departments Authorized to Conduct Traffic Stops

The duty to record and report traffic stop information applies to DESPP and other departments authorized to conduct traffic stops. They include:

1. municipal and state police;
2. special policemen appointed for state property by the DESPP commissioner;
3. special policemen or state policemen enforcing traffic regulations at the Department of Mental Health and Addiction Services or Department of Children and Families facilities;
4. policemen appointed for a utility or transportation company by

DESPP;

5. the motor vehicles commissioner, deputy commissioners, and designated salaried inspectors (who are authorized, by law, to enforce motor vehicle statutes and regulations);
6. State Capitol Police officers;
7. UConn and Connecticut State University System police;
8. state police enforcing traffic regulations at the Veterans' Home; and
9. fire police (who, by law, have powers over traffic control and regulation).

COMMITTEE ACTION

Judiciary Committee

Joint Favorable

Yea 21 Nay 20 (03/27/2015)