

Department of Legislative Services
Maryland General Assembly
2019 Session

FISCAL AND POLICY NOTE
First Reader

House Bill 301 (Delegate Wilkins, *et al.*)
Environment and Transportation

Vehicle Laws - Ethnicity-Based or Race-Based Traffic Stops - Policy and Reporting Requirements

This bill makes permanent the data collection and reporting program related to race-based traffic stops by repealing its termination date. In addition, the bill expands the program to encompass additional types of traffic stops and previously exempted law enforcement agencies, alters the categories of ethnicity and race that a law enforcement officer must report, and makes other changes to the reporting requirement.

Fiscal Summary

State Effect: General fund expenditures increase by *at least* \$218,600 in FY 2020 for personnel and reprogramming changes. Future years reflect personnel costs only. Costs associated with training are not reflected. Revenues are not affected.

(in dollars)	FY 2020	FY 2021	FY 2022	FY 2023	FY 2024
Revenues	\$0	\$0	\$0	\$0	\$0
GF Expenditure	218,600	45,200	46,700	48,300	50,000
Net Effect	(\$218,600)	(\$45,200)	(\$46,700)	(\$48,300)	(\$50,000)

Note: () = decrease; GF = general funds; FF = federal funds; SF = special funds; - = indeterminate increase; (-) = indeterminate decrease

Local Effect: The bill has an operational impact on local law enforcement agencies. In addition, expenditures increase for at least some local law enforcement agencies. Local revenues are not affected. **This bill may impose a mandate on a unit of local government.**

Small Business Effect: None.

Analysis

Bill Summary: The bill alters the definition of “traffic stop” to include (1) a stop based on the use of radar, laser, or vascar technology or (2) a stop based on the use of license plate reader technology.

The Maryland Police Training and Standards Commission (MPTSC), in consultation with the Maryland Statistical Analysis Center (MSAC), must develop a model policy against ethnicity-based traffic stops that a law enforcement agency may use in developing its own policy. (This model policy is in addition to the currently required model policy against race-based traffic stops.)

The bill requires *all* law enforcement agencies in the State to comply with the race-based traffic stops provisions of § 25-113 of the Transportation Article. As a result, the bill repeals an exception related to a law enforcement agency that is subject to an agreement with the U.S. Department of Justice (DOJ) requiring similar data collection.

Each time a law enforcement officer makes a traffic stop, the officer must report specified information to the agency that employs the officer using the required format. Under the bill, the officer must report the ethnicity of the driver as (1) Hispanic or Latino or (2) Not Hispanic or Latino.

In addition, the race of the driver must be reported as (1) White alone; (2) Black or African American alone; (3) Asian alone; (4) Native Hawaiian or other Pacific Islander alone; (5) some other race alone; (6) two or more races including some other race; or (7) two or more races excluding some other race. The bill also repeals the currently required race and ethnicity categories.

In its annual report to the Governor and the General Assembly analyzing local law enforcement reports, MSAC must disaggregate its findings by jurisdiction and law enforcement agency. Finally, the bill requires MSAC to submit a copy of each report it receives from local law enforcement agencies to the Governor and the General Assembly by September 1 each year.

Current Law: A “traffic stop” does not include (1) a checkpoint or roadblock stop; (2) a stop for public safety purposes arising from a traffic accident or emergency situation; (3) a stop based on the use of radar, laser, or vascar technology; or (4) a stop based on license plate reader technology.

MPTSC, in consultation with MSAC, must develop a model policy against race-based traffic stops that a law enforcement agency can use in developing its own policy. In addition, the commission is required to develop a model format for the efficient recording

of traffic stop data on an electronic device, or by any other means, for use by a law enforcement agency and guidelines that each law enforcement agency may use in data evaluation.

Law enforcement officers must record specified information in connection with each traffic stop, including the driver's race and ethnicity, to evaluate the manner in which the vehicle laws are being enforced. The race or ethnicity of the driver must be recorded as (1) Asian; (2) Black; (3) Hispanic; (4) White; or (5) other. Each law enforcement agency is required to compile the data collected by its officers and submit an annual report to MSAC by March 1 of each year reflecting the prior calendar year.

These provisions do not apply to a law enforcement agency that is subject to an agreement with DOJ requiring similar data collection; however, such agencies are required to provide copies of the report made to DOJ in lieu of the program's reporting requirements.

MSAC is charged with analyzing the data based on a methodology developed in consultation with MPTSC. By September 1 of each year, MSAC must issue a report to the Governor and the General Assembly as well as to each law enforcement agency. Reports of noncompliance by law enforcement agencies are required to be made by MPTSC and MSAC to the Governor and the Legislative Policy Committee.

Background: Chapters 342 and 343 of 2001 required the State's law enforcement agencies to adopt a policy against race-based traffic stops as a management tool to promote nondiscriminatory law enforcement practices. Generally, since 2002 (and phased in over a three-year period based on agency size), Maryland law enforcement agencies have been required to collect and report traffic stop data. Initially, data collection and related reporting was required for a five-year period, but the requirement has been extended (or reestablished) multiple times, most recently by Chapter 127 of 2015, with a termination date of May 31, 2020, for the program.

According to the Governor's Office of Crime Control and Prevention (GOCCP), funds for local law enforcement agencies to meet the requirements of the original legislation were never appropriated, and no reports of noncompliance were ever made. However, in August 2011, GOCCP provided funding to the Department of State Police (DSP) to distribute to law enforcement agencies the technology to electronically submit data on traffic stop records. "E-Tix" and Race-Based Reporting Modules were developed as part of an overhaul of DSP's Delta+ software. As a result, any agency with access to the software and these modules could submit data on individual traffic stops; DSP stored the data in a central repository. As of January 1, 2013, those law enforcement agencies have been required to report race-based traffic stop data electronically through the E-Tix and the Race-Based Reporting Modules of Delta+. As of February 2019, approximately 135 law enforcement agencies use E-tix.

In September 2018, GOCCP released the most recent report on traffic stops as required under Chapter 127 of 2015. **Exhibit 1** displays the overall breakdown of the race/ethnicity of drivers involved in traffic stops in calendar 2017. A complete text of the report, including appendices can be found [here](#).

Exhibit 1
Race/Ethnicity of Driver in Traffic Stops
2017

	<u>Frequency</u>	<u>Percent</u>
Asian	22,654	2.7%
African American	341,737	40.1%
Hispanic	70,391	8.3%
Other	33,886	4.0%
White	376,603	44.2%
Unknown	7,528	0.9%
Total	852,799	100.0%

Source: Governor's Office of Crime Control and Prevention

State Expenditures: GOCCP advises that it requires a part-time analyst to comply with the more detailed reporting requirements established by the bill. The Department of Legislative Services concurs. Accordingly, general fund expenditures increase by \$38,600 in fiscal 2020, which accounts for the bill's October 1, 2019 effective date. This estimate reflects the cost of hiring one part-time analyst to assist with the bill's new reporting requirements. It includes a salary, fringe benefits, one-time start-up costs, and ongoing operating expenses.

Position	0.5
Salary and Fringe Benefits	\$33,475
Operating Expenses	5,125
Total FY 2020 GOCCP Expenditures	\$38,600

Future year expenditures reflect a full salary with annual increases and employee turnover and ongoing operating expenses.

DSP advises that reprogramming changes totaling *at least* \$180,000 are necessary in fiscal 2020 only in order to comply with the bill's changes to race and ethnicity reporting requirements and to capture the additional types of traffic stops. Thus, general fund expenditures further increase by at least \$180,000. DSP advises that training on the

modified race and ethnicity categories would be necessary for all law enforcement agencies in the State; DSP assumed it would use a contractual trainer to travel around the State to ensure the new program is being used appropriately and the proper data is being recorded. This analysis acknowledges the need for the training by all State and local law enforcement agencies, but it does not reflect training costs as it is not clear how that training would actually be accomplished (and at what intervals) to ensure accurate identification and reporting of the bill's specified ethnicity and race categories. Accordingly, State expenditures (general, special, and federal) likely increase further, at least in fiscal 2020.

Local Expenditures: Because the bill modifies the data required to be collected by local law enforcement agencies and applies to more agencies, some smaller law enforcement agencies may experience greater degrees of difficulty than others in complying with the bill. Further, all local law enforcement agencies must also ensure that their officers are properly trained on how to identify and report under the specified ethnicity and race categories.

Even so, Montgomery County and the City of Bowie advise that no additional costs are expected under the bill. Prince George's County advises that minimal reprogramming costs are expected to be incurred under the bill (totaling between \$5,000 and \$10,000).

Additional Information

Prior Introductions: None.

Cross File: SB 417 (Senator Carter, *et al.*) - Judicial Proceedings.

Information Source(s): Montgomery and Prince George's counties; City of Bowie; Office of the Attorney General; Governor's Office of Crime Control and Prevention; Judiciary (Administrative Office of the Courts); Department of Public Safety and Correctional Services; Department of State Police; Maryland Department of Transportation; Department of Legislative Services

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