

**CONFIDENTIAL**  
**LEGISLATIVE BILL REVIEW FORM: 2014**

Bill Number: H-561-S 184 Name of Bill: Law enforcement agencies; bias free policing policy; race data collection

Agency/Dept: Public Safety Author of Bill Review: Captain Rick Hopkins

Date of Bill Review: 6-5-14 Status of Bill: (check one):

☐ Upon Introduction ☐ As passed by 1<sup>st</sup> body ☒ As passed by both bodies

Recommended Position: N/A

☐ Support ☐ Oppose ☐ Remain Neutral ☐ Support with modifications identified in # 8 below

**Analysis of Bill**

1. **Summary of bill and issue it addresses.** The bill has 2 main objectives. The first is to require all LE agencies to have a bias free policing policy meeting the elements of the VSP Fair and Impartial Policing policy NLT 9-1-2014; the second is to require every LE agency to collect race data starting 9-1-2014. The Bill calls for the Criminal Justice Training Council to work with VLCT, VT Human Rights Commission and Migrant Justice to create a model fair and impartial policing policy. The bill calls for agencies to adopt a policy containing the essential elements of VCJTC model policy NLT 07012016. meeting essential elements determined by the Law Enforcement Advisory Board (LEAB) after said board has conducted an assessment of the current VSP policy as well as the model policy drafted by the Office of the Attorney General. The bill also calls for agencies to report training on fair and impartial policing to VCJTC and for VCJTC to report same to the legislature. The bill also specifically states that roadside stop data, as well as reports and analysis of the data will be public
2. **Is there a need for this bill?** At this time there is no known legal requirement or a new precipitating event driving this bill. The bill appears to be aimed at a desire to have all law enforcement agencies have a bias free policy and participate in data collection in a manner similar to the Burlington Police, South Burlington Police, UVM Police, the Vermont State Police and Winooski Police.
3. **What are likely to be the fiscal and programmatic implications of this bill for this Department?** The implications to DPS will be limited. The requirements of the bill as written are already being voluntarily carried out by the Vermont State Police. The outcome of the VCJTC effort to create a model policy by 2016 could result in a model policy that VSP will need to comply with, but given the unknowns of what that model policy may be, no accurate analysis of implications is possible at this time.
4. **What might be the fiscal and programmatic implications of this bill for other departments in state government, and what is likely to be their perspective on it?** The Vermont Criminal Justice Council will play a role in training and coordination, a role that is identified in the bill. This will require staff time and associated cost to develop and execute training as well other coordination roles as identified. Other state law enforcement agencies such as DMV, Fish and Wildlife and Liquor control will need to ensure their existing bias free policies meet the essential elements as recommended by the Law Enforcement Advisory

Board and each will need to institute race data collection. Costs will include staff time for changing policy and work flows, training for staff, purchase and printing costs for forms RMS changes\* as well as data storage solutions. The largest cost will be associated with professional analysis of the data if desired, a cost that would likely be borne by each individual department.

It is likely that most Departments will support the bill in concept. Impacts for these agencies should be manageable. ~~It is anticipated that the Criminal Justice Training Council may suggest they are not the most appropriate body to coordinate implementation as they are primarily a training body.~~ As noted above, the model policy to be created will drive future impacts for other entities.

\* The costs of RMS changes would be spread out across all users of the RMS involved.

- 5. What might be the fiscal and programmatic implications of this bill for others, and what is likely to be their perspective on it?** There will be moderate to significant programmatic and fiscal implications for those municipal and county law enforcement agencies that do not have bias free policies (or inadequate ones) and for those that do not collect race data. Agencies will have to create a policy, procedures, work flows and forms that will support bias free policing and race data collection. Both aspects will require training of both sworn and support staff. Race data collection will specifically require printing and RMS changes\* as well as data storage solutions. The largest cost will be associated with professional analysis of the data if desired, a cost that would likely be borne by each individual department. The costs involved will vary widely depending on the size of the agency and their internal resources (or lack thereof).

It is predicted that some law enforcement executives will not support this proposal based on the financial and programmatic impacts. One executive cited additional staff time for data collection activities as a serious concern for him.

\* The costs of RMS changes would be spread out across all users of the RMS involved.

## **6. Other Stakeholders:**

**6.1 Who else is likely to support the proposal and why?** ACLU and advocacy groups. It could be anticipated that law enforcement agencies already engaged in race data collection would also support.

**6.2 Who else is likely to oppose the proposal and why?** Likely some resistance from municipalities or Sheriffs due to programmatic and fiscal concerns. Of those law enforcement executives asked, responses varied but several were not in favor. At least one advocate expressed serious concerns that a mandatory bill sets the stage for acrimony which could derail other efforts. He was clear that he did not support the bill in its current form.

- 7. Rationale for recommendation:** Data collection done correctly can be a useful tool that can build a better relationship between the police and the community resulting in a better overall criminal justice system. It should however be an inclusive process and one that is focused on outcomes rather than the narrowly focused activity of collecting the data. This is a case where starting with the end in mind is essential to success.

As noted above, several agencies are doing data collection and have been successful in implementing

programs based on outcomes. One shortcoming however is that the data collection is not being done statewide. Doing race data collection and analysis in a few jurisdictional vacuums is not presenting a complete or accurate picture of the current situation nor is it allowing for the best analysis given the smaller and incomplete data sets. With a more comprehensive analysis of this data set Vermont could be better able to identify issues and address them effectively.

**8. Specific modifications that would be needed to recommend support of this bill:**

- ~~Identify a methodology or establish a model policy on race data collection.~~ **ADDRESSED**
- ~~The current language is sufficiently vague to leave doubt regarding Constables. It is unclear if the intent is to include or exclude this group. Language that clearly includes or excludes them should be used.~~ **ADDRESSED**
- One concern is that the bill proposes data collection but does not really identify why the data is going to be collected or how it will be used, which led one person interviewed to use the term “witch hunt”. To avoid this kind of polarizing effect the why and how could be established early on. The purpose for data collection should be to improve the criminal justice system through identifying trends and areas for improvement and addressing them through policy, improved processes, and professional development. By also pre-establishing how data will be collected, stored, disseminated, protected and utilized much of the angst of the unknown could be eliminated. Simply put data collection done correctly is a comprehensive system, not a single task. **NOT ADDRESSED**
- The bill calls for agencies to work with the Chiefs Association and Criminal Justice Training council to standardize implementation. First this excludes the Sheriffs Association from the conversation. Second, it may be more efficient and effective to have a standard implementation identified within the bill or charge the LEAB (which included representation of these groups and others) with the task of standardizing implementation. This will result in a more inclusive process and will not put as much of a burden on the Criminal Justice Training Council which may not be best equipped or staffed for such a function. **THIS WAS RESOLVED AS NOTED ABOVE – VCJTC WILL DRIVE EFFORT**
- May consider looking at this concept as part of data driven or evidenced based system of fair and impartial policing, taking the focus of the singular task of collecting data. **NOT ADDRESSED**
- Consider identifying funding, goals and programmatic responsibility for data analysis of all data statewide. **NOT ADDRESSED**

Secretary/Commissioner has reviewed this document



Date: 6-5-14