

House _____ Amendment NO. _____

Offered By _____

1 AMEND House Committee Substitute for Senate Bill No. 806, Page 41, Section 475.361, Line 34,
2 by inserting immediately after all of said section and line the following:

3
4 "590.650. 1. The provisions of this section shall be known and may be cited as "The Fourth
5 Amendment Affirmation Act". As used in this section ["minority group" means individuals of
6 African, Hispanic, Native American or Asian descent] the following terms mean:

7 (1) "Benchmark", the number used as a basis of comparison in determining possible
8 disproportions in law enforcement activities, including the following:

9 (a) The benchmark for measuring disproportions in vehicle stops shall be the proportions of
10 drivers in racial or ethnic groups residing or traveling in a jurisdiction;

11 (b) The benchmark for measuring disproportions in post-stop activities shall be the racial or
12 ethnic group's proportion of stops; and

13 (c) The benchmark used to measure disproportions in hit rates shall be the group
14 proportions of drivers searched;

15 (2) "Consent search", a search authorized by the consent of the individual, not by probable
16 cause;

17 (3) "Discriminatory policing", circumstances in which the peace officer's actions are based
18 in whole or in part on the real or perceived race, ethnicity, religious beliefs, gender, English
19 language proficiency, status as a person with a disability, or a person's national origin rather than
20 upon specific and articulable facts, which, taken together with rational inferences from those facts,
21 reasonably indicate criminal activity. "Discriminatory policing" does not include investigations of
22 alleged crimes when law enforcement must seek out suspects who match a specifically delineated
23 description;

24 (4) "Hit rate", the rate of searches in which contraband is found. The hit rate is calculated
25 by dividing the number of searches that yield contraband by the total number of searches. Hit rate
26 may be calculated for individual officers, agencies, or multiple agencies;

27 (5) "Investigative stop", any stop by a peace officer of a motor vehicle involving at least in
28 part an investigation of a criminal violation other than a motor vehicle violation. Investigative stops
29 can involve calls for service, stops conducted in support of an agency investigation, stops conducted
30 because of a peace officer's observations, stops made at a sobriety checkpoint or other road block, or
31 other investigatory stops;

32 (6) "Minority group", individuals of African, Hispanic, Native American, or Asian descent;

33 (7) "Ratio of disparity", the ratio of the rate of stops or other peace officer activities for a
34 non-white group as compared to the rate for the white group. The ratio of disparity for the white
35 group shall be the white group rate compared to the rate for non-white groups;

36 (8) "Significant disparity", a ratio of disparity that is over one hundred twenty-five percent

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1 of the overall state disparity for any minority group for that category of officer activity after
 2 controlling for factors other than discrimination that are contributing to the disparity;

3 (9) "Significant disproportion", a ratio of disparity that is over one hundred twenty-five
 4 percent of the overall state ratio of disparity for any minority group for that category of peace
 5 officer activity.

6 2. Each time a peace officer stops a driver of a motor vehicle, that officer shall report at
 7 least the following information to the law enforcement agency that employs the officer:

8 (1) The age, gender and race or minority group of the individual stopped;

9 (2) Whether the driver resides in the jurisdiction of the stop;

10 (3) The reasons for the stop. Reasons for an investigative stop include, but are not limited
 11 to, calls for service, stops conducted in support of an agency investigation, stops conducted because
 12 of a peace officer's observations, and stops made at a sobriety checkpoint or other road block;

13 ~~[(3)]~~ (4) Whether a search was conducted as a result of the stop;

14 ~~[(4)]~~ (5) If a search was conducted, whether the individual consented to the search, how the
 15 individual's consent was documented, the probable cause for the search, whether the person was
 16 searched, whether the person's property was searched, and the duration of the search;

17 ~~[(5)]~~ (6) Whether any contraband was discovered in the course of the search and the type of
 18 any contraband discovered;

19 ~~[(6)]~~ (7) Whether any warning or citation was issued as a result of the stop;

20 ~~[(7)]~~ (8) If a warning or citation was issued, the violation charged or warning provided;

21 ~~[(8)]~~ (9) Whether an arrest was made as a result of either the stop or the search;

22 ~~[(9)]~~ (10) If an arrest was made, the crime charged; and

23 ~~[(10)]~~ (11) The location of the stop.

24
 25 Such information may be reported using a format determined by the department of public safety
 26 which uses existing citation and report forms.

27 3. (1) Each law enforcement agency shall compile the data described in subsection 2 of this
 28 section for the calendar year into a report to the attorney general.

29 (2) Each law enforcement agency shall submit the report to the attorney general no later
 30 than March first of the following calendar year.

31 (3) The attorney general shall determine the format that all law enforcement agencies shall
 32 use to submit the report. The attorney general may allow the department of public safety to extract
 33 the data from other reports filed by law enforcement agencies.

34 4. (1) The attorney general shall analyze the annual reports of law enforcement agencies
 35 required by this section and submit a report of the findings to the governor, the general assembly
 36 and each law enforcement agency no later than June first of each year.

37 (2) The report shall identify situations in which data submitted by agencies indicate that
 38 racial and ethnic groups are disproportionately affected by law enforcement activity so that further
 39 analysis may be conducted to determine whether peace officers are engaging in discriminatory
 40 policing;

41 (3) The report shall provide group ratios of disparity for all categories of stops, post-stop
 42 activities, searches, and contraband found using appropriate benchmarks as defined in subsection 1
 43 of this section;

44 (4) The report of the attorney general shall include at least the following information for
 45 each agency and for the state overall:

46 (a) The total number of vehicles stopped by peace officers during the previous calendar
 47 year;

48 (b) The number and percentage of stopped motor vehicles that were driven by members of

1 each particular minority group;

2 ~~(c) [A comparison of the percentage of stopped motor vehicles driven by each minority~~
 3 ~~group and the percentage of the state's population that each minority group comprises]~~ Ratios of
 4 disparity for all categories of stops, post-stop activities, searches, and contraband using appropriate
 5 benchmarks as defined in subsection 1 of this section; and

6 (d) A compilation of the information reported by law enforcement agencies pursuant to
 7 subsection 2 of this section.

8 5. ~~(1)~~ Each law enforcement agency shall adopt a policy on ~~[race-based traffic stops]~~
 9 discriminatory policing that:

10 ~~[(1)] (a)~~ Prohibits ~~[the practice of routinely stopping members of minority groups for~~
 11 ~~violations of vehicle laws as a pretext for investigating other violations of criminal law]~~
 12 discriminatory policing;

13 ~~[(2)] (b)~~ Provides for ~~[periodic]~~ annual reviews by the law enforcement agency of the
 14 annual report of the attorney general required by subsection 4 of this section that:

15 ~~[(a)] a.~~ Determine whether any peace officers of the law enforcement agency have a pattern
 16 of stopping members of minority groups for violations of vehicle laws in a number disproportionate
 17 to the population of minority groups residing or traveling within the jurisdiction of the law
 18 enforcement agency; and

19 ~~[(b)] b.~~ If the review reveals a pattern, require an investigation to determine whether any
 20 peace officers of the law enforcement agency ~~[routinely stop members of minority groups for~~
 21 ~~violations of vehicle laws as a pretext for investigating other violations of criminal law; and]~~
 22 engaged in discriminatory policing;

23 c. Include a review of complaints received by the law enforcement agency and a breakdown
 24 of which complaints were verified, found to be unfounded, remain active, and what steps were taken
 25 to address verified complaints. The review of complaints shall indicate the number of complaints
 26 alleging discriminatory policing that a law enforcement agency received; and

27 d. The results of the review shall be made public, however, no personnel information
 28 prohibited by law shall be disclosed; and

29 ~~[(3)] (c)~~ Provides for appropriate discipline, up to and including dismissal, counseling, and
 30 training of any peace officer found to have engaged in [raee-based traffic stops] discriminatory
 31 policing within ninety days of the review.

32
 33 The course or courses of instruction and the guidelines shall stress understanding and respect for
 34 racial and cultural differences, cultural competency, and development of effective, noncombative
 35 methods of carrying out law enforcement duties in a racially and culturally diverse environment.

36 (2) Each policy shall be in writing and accessible by the public. The attorney general shall
 37 certify that the discriminatory policing policy of each agency is substantially equivalent to the
 38 requirements of this subsection.

39 (3) Each policy shall put in place procedures to eliminate discriminatory policing.

40 6. When a motor vehicle has been stopped solely for a traffic violation, a peace officer shall
 41 request only the following documentation from only the driver of the motor vehicle:

42 (1) A driver's license or other verifiable, government-issued identification, including
 43 foreign-issued identification;

44 (2) Motor vehicle registration; and

45 (3) Proof of insurance.

46 7. If a law enforcement agency fails to comply with the provisions of this section, the
 47 governor may withhold any state funds appropriated to the noncompliant law enforcement agency.

48 ~~[7-]~~ 8. Each law enforcement agency in this state may utilize federal funds from

1 community-oriented policing services grants or any other federal sources to equip each vehicle used
2 for traffic stops with a video camera and voice-activated microphone or to purchase body cameras.

3 ~~[8. A peace officer who stops a driver of a motor vehicle pursuant to a lawfully conducted~~
4 ~~sobriety check point or road block shall be exempt from the reporting requirements of subsection 2~~
5 ~~of this section.]~~"; and

6
7 Further amend said bill by amending the title, enacting clause, and intersectional references
8 accordingly.