

AMENDED IN ASSEMBLY MARCH 26, 2015

CALIFORNIA LEGISLATURE—2015–16 REGULAR SESSION

ASSEMBLY BILL

No. 953

Introduced by Assembly Member Weber

February 26, 2015

An act to add Sections 12525.5 and 12525.6 to the Government Code, and to amend Section 13519.4 of the Penal Code, relating to racial profiling.

LEGISLATIVE COUNSEL’S DIGEST

AB 953, as amended, Weber. Law enforcement: racial profiling.

Existing law creates the Commission on Peace Officer Standards and Training and requires it to develop and disseminate guidelines and training for all law enforcement officers, as described. Existing law *prohibits a law enforcement officer from engaging in racial profiling* and requires the training prescribe patterns, practices, and protocols that prevent racial profiling, as defined. Existing law requires the Legislative Analyst’s Office to conduct a study of the data that is voluntarily collected by jurisdictions that have instituted a program of data collection with regard to racial profiling.

~~This bill would declare the intent of the Legislature to enact legislation that revises the definition of “racial profiling” and requires law enforcement departments to collect, analyze, and report data on individual stops in order to identify and eliminate unjustified racial disparities and bias.~~

This bill would revise the definition of racial profiling to instead refer to racial and identity profiling, would make a conforming change to the prohibition against law enforcement officers engaging in that practice, and would make the prohibition specifically applicable to

probation and parole officers. The bill would also require a law enforcement officer who is found to have engaged in racial or identity profiling to participate in training to correct racial and identity profiling at least every 6 months for 2 years, starting from the date each finding is made.

The bill would require the Attorney General to establish the Racial and Identity Profiling Advisory Board (RIPA) to eliminate racial and identity profiling and improve diversity and racial sensitivity in law enforcement. The bill would specify the composition of the board. The bill would require the board to investigate and analyze racial and identity profiling policies and practices, to annually make publicly available its findings and recommendations, and to issue the first report no later than January 1, 2018.

The bill would require, on and after July 1, 2017, each state and local agency that employs peace officers to report to the Attorney General, on at least a quarterly basis, data on all traffic and pedestrian stops conducted by the agency's peace officers, and require that data to include specified information, including the time, date, and location of the stop, search, or seizure, and the characteristics of each peace officer involved. The bill would require the agencies to retain that data for a minimum of 5 years. The bill would require the Attorney General, no later than January 1, 2017, to issue regulations for the collection and reporting of data. The bill would also require the Attorney General to analyze the data collected, report its findings from the first analysis by July 1, 2018, issue reports each year July 1, and make the reports available to the public by posting them on the Department of Justice's Internet website.

The bill would also require each year, on an annual basis, any state or local agency that employs peace, probation, or parole officers to report to the Attorney General, the number of complaints filed in each of the previous three years against peace officers in its employment alleging racial or identity profiling, wrongful arrest, or excessive force. The bill would require RIPA to analyze the complaints received and, by July 1, 2018, to publicly report the information received, its analysis of the information, and its recommendations.

By imposing a higher level of service on local entities that employ peace officers, the bill would impose a state-mandated local program.

The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state.

Statutory provisions establish procedures for making that reimbursement.

This bill would provide that, if the Commission on State Mandates determines that the bill contains costs mandated by the state, reimbursement for those costs shall be made pursuant to these statutory provisions.

Vote: majority. Appropriation: no. Fiscal committee: ~~no~~-yes.
State-mandated local program: ~~no~~-yes.

The people of the State of California do enact as follows:

- 1 *SECTION 1. Section 12525.5 is added to the Government Code,*
2 *to read:*
3 *12525.5. (a) On and after July 1, 2017, each state and local*
4 *agency that employs peace officers shall report to the Attorney*
5 *General, on at least a quarterly basis, data on all traffic and*
6 *pedestrian stops conducted by that agency's peace officers.*
7 *(b) The data collection and reporting shall include, at a*
8 *minimum, the following information for each stop, search, or*
9 *seizure:*
10 *(1) The time, date, and location of the stop, search, or seizure.*
11 *(2) The characteristics of each officer involved in the stop,*
12 *including, but not limited to, his or her badge or identification*
13 *number, race or ethnicity, gender, age, assignment, division or*
14 *station, and shift, and whether he or she was in uniform.*
15 *(3) The basis for the stop, including, but not limited to, the*
16 *offense suspected, and whether the action was initiated in response*
17 *to a call for service, and, if the action was initiated in response to*
18 *a call for services, the incident identifier.*
19 *(4) The result of the stop, such as no action, warning, citation,*
20 *property seizure, or custodial arrest.*
21 *(5) If a warning or citation was issued, the violation charged*
22 *or warning provided.*
23 *(6) If an arrest was made, the offense charged.*
24 *(7) A description of all persons detained during the stop. The*
25 *description shall be based on the observation and perception of*
26 *the peace officer making the stop, and the information shall not*
27 *be requested from the person stopped. The description shall*
28 *include, but not be limited to:*
29 *(A) The number of persons stopped.*

1 (B) *The perceived or voluntarily disclosed race or ethnicity,*
2 *gender, and age of all persons stopped.*

3 (C) *Whether any person had language barriers, including, but*
4 *not limited to, limited English proficiency.*

5 (D) *Any mental or physical disability of a person who was*
6 *stopped.*

7 (E) *Whether the officer personally knew any person prior to the*
8 *stop.*

9 (F) *For traffic stops, whether the person was a driver or*
10 *passenger.*

11 (8) *Actions taken by the peace officer during the stop, including,*
12 *but not limited to, the following:*

13 (A) *Whether the officer asked if any person was on probation*
14 *or parole, and if so, which persons were asked.*

15 (B) *Whether the officer asked for consent to frisk or search any*
16 *person, and if so, whether consent was provided.*

17 (C) *Whether the officer searched any person or property, and*
18 *if so, which persons were searched and what property was*
19 *searched, the basis for the search, and the type of contraband or*
20 *evidence discovered, if any.*

21 (D) *Whether the officer seized any property and, if so, the type*
22 *of property that was seized, the person from whom the property*
23 *was seized, and the basis for seizing the property.*

24 (E) *Whether the person was armed with a weapon and, if so,*
25 *with what type of weapon.*

26 (F) *Whether the officer used force during the encounter, and if*
27 *so, the type of force used and reason for using the force.*

28 (9) *A description of any person upon whom force was used,*
29 *including, but not limited to, all of the following information:*

30 (A) *The perceived or voluntarily disclosed race or ethnicity,*
31 *gender, sexual orientation, or religion of the person.*

32 (B) *Whether the person had limited English proficiency.*

33 (C) *Any perceived mental or physical disability or preexisting*
34 *injury or medical condition of the person.*

35 (10) *Whether any other governmental or nongovernmental*
36 *agency or service provider was called to respond to the scene, and*
37 *if so, what agency or service provider, and the reason the agency*
38 *or service provider was called to respond.*

1 (11) Whether any person sustained any injuries during the
2 encounter, and if so, which person, and the nature of the injuries
3 and medical treatment provided.

4 (c) State and local law enforcement agencies shall not report
5 the name, address, social security number, or other unique
6 personal identifying information of persons stopped, searched, or
7 subjected to a property seizure, for purposes of this section.
8 Notwithstanding any other law, the data reported shall be available
9 to the public, except for the badge number or other unique
10 identifying information of the officer involved, which shall be
11 released to the public only to the extent the release is permissible
12 under state law.

13 (d) Not later than January 1, 2017, the Attorney General, in
14 consultation with stakeholders, including federal, state, and local
15 law enforcement agencies and community, professional, academic,
16 research, and civil rights organizations, shall issue regulations
17 for the collection and reporting of data required under subdivision
18 (b). The regulations shall specify all data to be reported, and
19 provide standards, definitions, and technical specifications to
20 ensure uniform reporting practices across all reporting agencies.
21 To the best extent possible, such regulations should be compatible
22 with any similar federal data collection or reporting program.

23 (e) Each year, on an annual basis, each state and local law
24 enforcement agency shall make publicly available a report that
25 lists the agency's total results for each data collection criteria
26 required under subdivision (b). The reports shall include the data
27 collected during the preceding calendar year. The first round of
28 the annual reports shall be issued by each agency on or before
29 July 1, 2018. The Attorney General, in consultation with RIPA,
30 shall determine the form in which agencies make the information
31 publicly available. Each state and local law enforcement agency
32 shall post the reports on the Internet Web site for that agency, or
33 if an agency does not have an Internet Web site, the Department
34 of Justice shall post the agency's reports on its Internet Web site.

35 (f) Data reported pursuant to this section shall be retained by
36 the reporting agency for a minimum of five years.

37 (g) Each year, on an annual basis, the Attorney General shall
38 analyze the data collected. The Attorney General shall report its
39 findings from the first analysis by July 1, 2018, and shall issue
40 reports each July 1 thereafter. The reports shall be available to

1 *the public by posting those reports on the Department of Justice's*
2 *Internet Web site.*

3 *SEC. 2. Section 12525.6 is added to the Government Code, to*
4 *read:*

5 *12525.6. (a) Each year, on an annual basis, any state or local*
6 *agency that employs peace, probation, or parole officers shall*
7 *report to the Attorney General, the number of complaints filed in*
8 *each of the previous three years against peace officers in its*
9 *employment alleging racial or identity profiling, as defined by*
10 *subdivision (e) of Section 13519.4 of the Penal Code, wrongful*
11 *arrest, or excessive force. The reports shall include, at minimum,*
12 *the specific types of racial or identify profiling alleged in each*
13 *complaint, such as based on race, color, age, ethnicity, national*
14 *origin, religion, gender identity or expression, sexual orientation,*
15 *housing status, or mental or physical disability. The reports shall*
16 *also include the disposition for each complaint.*

17 *(b) Each year, on an annual basis, RIPA shall analyze the*
18 *complaints received from law enforcement pursuant to subdivision*
19 *(a) and, by July 1, 2018, publicly report the information received,*
20 *its analysis of the information, and its recommendations. The*
21 *reports shall not disclose the identity of peace officers.*

22 *(c) Not later than July 1, 2017, the Attorney General, in*
23 *consultation with stakeholders, including the Racial Profiling*
24 *Advisory Board, federal, state, and local law enforcement agencies*
25 *and community, professional, university academic, research, and*
26 *community and civil rights organizations, shall issue regulations*
27 *for the reporting of information pursuant to this section.*

28 *SEC. 3. Section 13519.4 of the Penal Code is amended to read:*

29 *13519.4. (a) The commission shall develop and disseminate*
30 *guidelines and training for all law enforcement officers in*
31 *California as described in subdivision (a) of Section 13510 and*
32 *who adhere to the standards approved by the commission, on the*
33 *racial and cultural differences among the residents of this state.*
34 *The course or courses of instruction and the guidelines shall stress*
35 *understanding and respect for racial and cultural differences, and*
36 *development of effective, noncombative methods of carrying out*
37 *law enforcement duties in a racially and culturally diverse*
38 *environment.*

39 *(b) The course of basic training for law enforcement officers*
40 *shall include adequate instruction on racial and cultural diversity*

1 in order to foster mutual respect and cooperation between law
2 enforcement and members of all racial and cultural groups. In
3 developing the training, the commission shall consult with
4 appropriate groups and individuals having an interest and expertise
5 in the field of cultural awareness and diversity.

6 (c) For the purposes of this section the following shall apply:

7 (1) “Disability,” “gender,” “nationality,” “religion,” and “sexual
8 orientation” have the same meaning as in Section 422.55.

9 (2) “Culturally diverse” and “cultural diversity” include, but
10 are not limited to, disability, gender, nationality, religion, and
11 sexual orientation issues.

12 (3) “Racial” has the same meaning as “race or ethnicity” in
13 Section 422.55.

14 (d) The Legislature finds and declares as follows:

15 (1) Racial profiling is a practice that presents a great danger to
16 the fundamental principles of a democratic society. It is abhorrent
17 and cannot be tolerated.

18 (2) Motorists who have been stopped by the police for no reason
19 other than the color of their skin or their apparent nationality or
20 ethnicity are the victims of discriminatory practices.

21 (3) It is the intent of the Legislature in enacting the changes to
22 Section 13519.4 of the Penal Code made by the act that added this
23 subdivision that more than additional training is required to address
24 the pernicious practice of racial profiling and that enactment of
25 this bill is in no way dispositive of the issue of how the state should
26 deal with racial profiling.

27 (4) The working men and women in California law enforcement
28 risk their lives every day. The people of California greatly
29 appreciate the hard work and dedication of law enforcement
30 officers in protecting public safety. The good name of these officers
31 should not be tarnished by the actions of those few who commit
32 discriminatory practices.

33 (e) “Racial *or identity* profiling,” for purposes of this section,
34 is the practice of detaining a suspect based on a broad set of criteria
35 which casts suspicion on an entire class of people without any
36 individualized suspicion of the particular person being stopped.
37 *consideration of or reliance on, to any degree, actual or perceived*
38 *race, color, ethnicity, national origin, religion, gender identity or*
39 *expression, sexual orientation, or mental or physical disability in*
40 *deciding which persons to subject to routine or spontaneous law*

1 *enforcement activities or in deciding upon the scope and substance*
2 *of law enforcement activities following an initial contact. The*
3 *activities include, but are not limited to, traffic or pedestrian stops,*
4 *or actions during a stop, such as, asking questions, frisks,*
5 *consensual and nonconsensual searches of a person or any*
6 *property, seizing any property, removing vehicle occupants during*
7 *a traffic stop, issuing a citation, and making an arrest.*

8 (f) A law enforcement officer shall not engage in racial or
9 identity profiling. For purposes of this subdivision, “law
10 enforcement” includes, but is not limited to, municipal police,
11 sheriffs, members of the California Highway Patrol, probation
12 officers, and parole officers.

13 (g) Every law enforcement officer in this state shall participate
14 in expanded training as prescribed and certified by the Commission
15 on Peace Officers Standards and Training.

16 (h) The curriculum shall utilize the Tools for Tolerance for Law
17 Enforcement Professionals framework and shall include and
18 examine ~~the evidence-based~~ patterns, practices, and protocols that
19 make up racial and identity profiling, *including implicit bias*. This
20 training shall prescribe *evidence-based* patterns, practices, and
21 protocols that prevent racial and identity profiling. In developing
22 the training, the commission shall consult with ~~appropriate groups~~
23 ~~and individuals having an interest and expertise in the field of~~
24 ~~racial profiling.~~ *the Racial and Identity Profiling Advisory Board*
25 *established pursuant to subdivision (j).* The course of instruction
26 shall include, but not be limited to, ~~adequate significant~~
27 consideration of each of the following subjects:

28 (1) Identification of key indices and perspectives that make up
29 cultural differences among residents in a local community.

30 (2) Negative impact of *intentional and implicit* biases,
31 prejudices, and stereotyping on effective law enforcement,
32 including examination of how historical perceptions of
33 discriminatory enforcement practices have harmed
34 police-community relations *and contributed to injury, death,*
35 *disparities in arrest, detention and incarceration rates, and*
36 *wrongful convictions.*

37 (3) The history and the role of the civil rights movement and
38 struggles and their impact on law enforcement.

39 (4) Specific obligations of officers in preventing, reporting, and
40 responding to discriminatory or biased practices by fellow officers.

1 (5) Perspectives of diverse, local constituency groups and
2 experts on particular cultural and police-community relations issues
3 in a local area.

4 (6) *The prohibition against racial and identity profiling in*
5 *subdivision (f).*

6 (i) Once the initial basic training is completed, each law
7 enforcement officer in California as described in subdivision (a)
8 of Section 13510 who adheres to the standards approved by the
9 commission shall be required to complete a refresher course every
10 five years thereafter, or on a more frequent basis if deemed
11 necessary, in order to keep current with changing racial, *identity*,
12 and cultural trends. *A law enforcement officer, as described in*
13 *subdivision (f), who is found to have engaged in racial or identity*
14 *profiling shall participate in training to correct racial and identity*
15 *profiling at least every six months for two years, starting from the*
16 *date each finding is made.*

17 ~~(j) The Legislative Analyst shall conduct a study of the data~~
18 ~~being voluntarily collected by those jurisdictions that have~~
19 ~~instituted a program of data collection with regard to racial~~
20 ~~profiling, including, but not limited to, the California Highway~~
21 ~~Patrol, the City of San Jose, and the City of San Diego, both to~~
22 ~~ascertain the incidence of racial profiling and whether data~~
23 ~~collection serves to address and prevent such practices, as well as~~
24 ~~to assess the value and efficacy of the training herein prescribed~~
25 ~~with respect to preventing local profiling. The Legislative Analyst~~
26 ~~may prescribe the manner in which the data is to be submitted and~~
27 ~~may request that police agencies collecting such data submit it in~~
28 ~~the requested manner. The Legislative Analyst shall provide to the~~
29 ~~Legislature a report and recommendations with regard to racial~~
30 ~~profiling by July 1, 2002.~~

31 (j) (1) *Beginning July 1, 2016, the Attorney General shall*
32 *establish the Racial and Identity Profiling Advisory Board (RIPA)*
33 *for the purpose of eliminating racial and identity profiling, and*
34 *improving diversity and racial sensitivity in law enforcement.*

35 (2) *RIPA shall include the following members:*

36 (A) *The Attorney General, or a designee.*

37 (B) *The President of the California Public Defenders*
38 *Association, or a designee.*

39 (C) *The President of the California Police Chiefs Association,*
40 *or a designee.*

1 (D) *The Chair of the Legislative Black Caucus of the California*
2 *Legislature, or his or her designee.*

3 (E) *The Chair of the Latino Legislative Caucus of the California*
4 *Legislature, or his or her designee.*

5 (F) *The Chair of the Asian and Pacific Islander Caucus of the*
6 *California Legislature, or his or her designee.*

7 (G) *The Chair of the Lesbian, Gay, Bisexual, and Transgender*
8 *Caucus of the California Legislature, or his or her designee.*

9 (H) *A university professor who specializes in policing, and*
10 *racial and identity equity.*

11 (I) *Two representatives of civil rights tax-exempt organizations*
12 *who specialize in civil and human rights and criminal justice.*

13 (J) *Two community organizers who specialize in civil or human*
14 *rights and criminal justice.*

15 (K) *A clergy member who specializes in addressing and reducing*
16 *bias toward individuals and groups based on religious beliefs or*
17 *practices.*

18 (L) *Other members as the board may prescribe.*

19 (3) *RIPA shall investigate and analyze racial and identity*
20 *profiling policies and practices in law enforcement. RIPA shall*
21 *annually make publicly available its findings and*
22 *recommendations. The first report of those findings and*
23 *recommendations shall be issued no later than January 1, 2018.*

24 SEC. 4. *If the Commission on State Mandates determines that*
25 *this act contains costs mandated by the state, reimbursement to*
26 *local agencies and school districts for those costs shall be made*
27 *pursuant to Part 7 (commencing with Section 17500) of Division*
28 *4 of Title 2 of the Government Code.*

29 ~~SECTION 1. It is the intent of the Legislature to enact~~
30 ~~legislation that revises the definition of “racial profiling” and~~
31 ~~requires law enforcement departments to collect, analyze, and~~
32 ~~report data on individual stops in order to identify and eliminate~~
33 ~~unjustified racial disparities and bias.~~