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Sponsor's Proposed Amendment to LD 1613
For Work Session June 7, 2023

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Proposed amendments shown highlighted.

PART A

Sec. A-1. 5 MRSA §4684-C is enacted to read:

No change

§4684-C. Civil rights officers

1. Definitions. For the purposes of this section, unless the context otherwise indicates, the following terms have the following meanings.

A. "Civil rights officer" means a law enforcement officer who has received special training approved by the Attorney General in identifying and investigating civil rights violations.

B. "Law enforcement agency" means an agency in the State charged with enforcement of state, county, municipal or federal laws or laws of a federally recognized Indian tribe, with the prevention, detection or investigation of criminal, immigration or customs laws or with managing custody of detained persons in the State and includes, but is not limited to, a municipal police department, a sheriff's department, the State Police, a university or college police department and the Department of Public Safety.

C. "Law enforcement officer" means a state, county or municipal official or an official of a federally recognized Indian tribe responsible for enforcing criminal, immigration or customs laws, including, but not limited to, a law enforcement officer who possesses a valid certificate issued by the Board of Trustees of the Maine Criminal Justice Academy pursuant to Title 25, section 2803-A.

2. Required civil rights officer. A law enforcement agency shall select, assign and secure training for a civil rights officer, notify the Attorney General of the name and contact information for the civil rights officer and notify the Attorney General of any change in assignment of the civil rights officer as soon as practicable after the change is made. The law enforcement agency shall make the contact information for the civil rights officer publicly available.

PART B

Sec. B-1. 5 MRSA §4681, sub-§1 is amended to read:

New

1. Interference with rights; action by Attorney General. Whenever any person, whether or not acting under color of law, intentionally interferes or attempts to intentionally interfere by physical force or violence against a person, damage or destruction of property or trespass on property or by the threat of physical force or violence against a person, damage or destruction of property or trespass on property with the exercise or enjoyment by any other person of rights secured by the United States Constitution or the laws of the United States or of rights secured by the Constitution of Maine or laws of the State or violates section 4684-B or 4755, the Attorney General may bring a civil action for injunctive or other appropriate equitable relief in order to protect the peaceable exercise or enjoyment of the rights secured.

Sec. B-2. 5 MRSA §4682, sub-§1-A is amended to read:

New

1-A. Interference with rights; private actions. Whenever any person, whether or not acting under color of law, intentionally interferes or attempts to intentionally interfere by physical force or violence against a

person, damage or destruction of property or trespass on property or by the threat of physical force or violence against a person, damage or destruction of property or trespass on property with the exercise or enjoyment by any other person of rights secured by the United States Constitution or the laws of the United States or of rights secured by the Constitution of Maine or laws of the State or violates section 4684-B or 4755, the person whose exercise or enjoyment of these rights has been interfered with, or attempted to be interfered with, may institute and prosecute in that person's own name and on that person's own behalf a civil action for legal or equitable relief.

Sec. ~~B-1~~ B-3. 5 MRSA c. 337-D, headnote is amended to read:

Replace text

CHAPTER 337-D

PROFILING AND DATA COLLECTION

Sec. ~~B-2~~ B-4. 5 MRSA §4751, sub-§3 is enacted to read:

~~3. Profiling. "Profiling" means relying, to any degree, on actual or perceived race, gender, ethnicity, religion, socioeconomic status, ancestry, sexual orientation, gender identity, color, physical or mental disability or national origin in targeting an individual for routine or spontaneous investigatory activities or in deciding upon the scope and substance of law enforcement activity following the initial investigatory procedure, except in the event the officer or agency is relying on trustworthy information that is relevant to the locality and time frame and that links a person with a particular characteristic described in this section to a specific criminal incident or scheme.~~

3. Profiling. "Profiling" means the consideration of or reliance on, to any degree, actual or perceived race, color, ancestry, national origin, age, religion, sex, gender identity, sexual orientation, familial status or mental or physical disability in deciding which persons to subject to traffic or pedestrian stops or in deciding the scope or substance of law enforcement activities following a traffic or pedestrian stop, except that an officer may consider or rely on characteristics listed in a specific suspect description. For purposes of this subsection, "activities following a traffic or pedestrian stop" include, but are not limited to asking questions of the stopped person, frisking the stopped person, conducting consensual and nonconsensual searches of the stopped person or any property, seizure of any property, requiring vehicle occupants to exit a vehicle during a traffic stop, issuing a citation and making an arrest.

Sec. ~~B-3~~ B-5. 5 MRSA §4755 is enacted to read:

Add text

§4755. Profiling prohibited

In enforcing the laws of this State, a law enforcement officer or law enforcement agency may not engage in profiling. The Attorney General or a person who was profiled, or both, may bring an action under section 4681 or section 4682 of the Maine Civil Rights Act, respectively, against a law enforcement officer or law enforcement agency that violates this section. Violations of this section may also form the basis of disciplinary proceedings by the Maine Criminal Justice Academy Board of Trustees under Title 25, section 2803-A, subsection 15 to suspend or to revoke any certification issued by the board. Nothing in this section limits any other remedy that may exist for a violation of this section under any other state or federal law or under any policy or contract of the relevant law enforcement agency.

PART C

Sec. C-1. 5 MRSA §4752, sub-§1, as enacted by PL 2021, c.360, §1, is amended to read:

New

1. Information collected. Beginning July 1, ~~2023~~ 2024, a law enforcement agency shall record and retain the following information regarding traffic infractions occurring in this State:

A. The number of persons stopped for traffic infractions;

B. Characteristics of race, color, ethnicity, gender and age of each person described in paragraph A. The identification of such characteristics must be based on the observation and perception of the law enforcement officer responsible for reporting the stop. The person stopped may not be required to provide the information;

C. The nature of each alleged traffic infraction that resulted in a stop;

D. Whether a warning or citation was issued, an arrest was made or a search was conducted as a result of each stop for a traffic infraction; and

E. Any additional information the law enforcement agency determines appropriate. The additional information may not include any other personally identifiable information about a person stopped for a traffic infraction such as the person's driver's license number, name or address.

Sec. ~~C-1~~ ~~C-2~~. 5 MRSA §4753, sub-§1, as enacted by PL 2021, c. 460, §1, is amended to read:

No change

1. **Adoption of rules.** By January 1, ~~2023~~ 2024, the Attorney General shall adopt rules for the recording, retention and reporting of information pursuant to section 4752 pertaining to persons stopped for traffic infractions. The information must include the characteristics of race, color, ethnicity, gender and age of the persons stopped, based on the observation and perception of the law enforcement officer making the stop. Rules adopted pursuant to this subsection are routine technical rules as defined in chapter 375, subchapter 2-A.

Sec. ~~C-2~~ ~~C-3~~. 5 MRSA §4754, as enacted by PL 2021, c. 460, §1, is amended to read:

No change

§4754. Report; publication of data

Beginning January 15, ~~2024~~ 2025 and annually thereafter, the Attorney General shall provide to the joint standing committees of the Legislature having jurisdiction over judiciary matters and criminal justice and public safety matters and make available to the public a report of the information collected pursuant to this chapter. The report must include an analysis of the information and may include recommendations for changes in laws, rules and practices. Information reported may not include personally identifiable information.

Sec. ~~C-3~~ ~~C-4~~. **Retroactivity.** This Part applies retroactively to December 31, 2023.

No change

Amend the bill by relettering or renumbering any nonconsecutive Part letter or section number to read consecutively.

SUMMARY

This amendment, which is the _____ report of the committee, replaces the definition of "profiling" in the bill. Under the amendment, "profiling" is defined to mean considering or relying, to any degree, on a person's actual or perceived race, color, ancestry, national origin, age, religion, sex, gender identity, sexual orientation, familial status or mental or physical disability in deciding whether to subject that person to a traffic or pedestrian stop and in deciding on the scope or substance of law enforcement activities following such a stop. A law enforcement officer does not engage in profiling when the officer relies on characteristics listed in a specific suspect description when subjecting a person to a traffic or pedestrian stop, however. The amendment also clarifies that, if a law enforcement agency or officer engages in profiling, the aggrieved person or the Attorney General, or both, may bring an action under the Maine Civil Rights Act and the law enforcement agency or officer may be subject to disciplinary action by the Board of Trustees of the Maine Criminal Justice Academy.

The bill changed from January 1, 2023 to January 1 2024 the date by which the Attorney General must adopt rules for the recording, retention and reporting of information regarding traffic infractions. The amendment also changes from January 1, 2023 to January 1, 2024 the date on which law enforcement agencies are required to begin recording, retaining and reporting specific information regarding traffic infractions in accordance with those rules.