
OLR Bill Analysis

sHB 6888

AN ACT CONCERNING JUVENILE JUSTICE.

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Expands police traffic stop information recording and reporting requirements to include pedestrian stops; transfers certain reporting requirements from OPM to UConn's Institute for Municipal and Regional Policy; temporarily suspends certain reporting requirements

BACKGROUND

SUMMARY

This bill makes various changes to laws on juvenile justice, racial profiling, and pedestrian stops.

Among other things, the bill:

1. requires law enforcement agencies, rather than arresting a child for certain offenses (such as disorderly conduct), to refer them to a juvenile review board to receive services (§ 1);
2. establishes an implementation team to develop a mandatory prearrest diversion plan for low-risk children (§ 2);
3. expands the Juvenile Justice Policy and Oversight Committee's (JJPOC) membership by adding three new members (§ 3);
4. requires various state agencies, in consultation with designated JJPOC subcommittees, to develop a commissary implementation plan and a reentry success plan (§§ 3, 4 & 5);
5. requires the judicial branch, by July 1, 2023, to begin reviewing and updating the implementation plan developed pursuant to PA 21-174, § 13, to securely house in the branch's custody anyone under age 18 who is arrested and detained (§ 6);
6. prohibits police officers from engaging in racial profiling based, in "whole or in part," on a person's perceived racial or ethnic status, and creates an exception when the officer is using the person's status in combination with other information to seek a specific person (§ 7);
7. generally, expands police traffic stop information recording and

reporting requirements to include pedestrian stops; transfers certain related requirements from the Office of Policy and Management (OPM) to UConn's Institute for Municipal and Regional Policy; and temporarily suspends certain reporting requirements (§ 8); and

8. makes minor, technical, and conforming changes and deletes obsolete provisions.

EFFECTIVE DATE: Upon passage, except the provision on required referrals to juvenile review boards is effective July 1, 2023 (§ 1).

§ 1 — MANDATORY REFERRALS TO JUVENILE REVIEW BOARDS

Requires the police, rather than arresting children for certain offenses, to refer them to a juvenile review board to receive services under the community-based diversion system, with possible referral back to court if the child fails to meet the program's requirements

Under existing law, there must be a community-based diversion system based on a plan the law requires JJPOC to develop. The bill specifies when certain children must be referred to the diversion system for services.

Under the bill, when a child commits any of four specified offenses, instead of arresting the child, the law enforcement agency must refer the child to a juvenile review board under the community-based diversion system. This applies when a child commits simple trespass, creating a public disturbance, 6th degree larceny, or disorderly conduct. The first two are infractions, the last two are class C misdemeanors.

Under the bill, the juvenile review board must require the child to receive prevention, intervention, and treatment services provided by a youth service bureau or community-based service provider. If the child does not successfully fulfill the bureau's or provider's requirements, the bill allows the juvenile review board to refer the child to court for delinquency proceedings.

Background

Juvenile Review Boards. Juvenile Review Boards are diversionary and prevention programs designed to help local police departments

deal with juvenile offenders. They are usually composed of representatives of local youth service agencies, police departments, and the juvenile court.

Youth Service Bureaus. By law, municipalities, or private youth-serving organizations acting as their agents, may establish a youth service bureau to evaluate, plan, coordinate and implement services, including prevention and intervention programs for delinquent, predelinquent, and troubled youths referred to the bureaus by schools, police, juvenile courts, adult courts, local youth-serving agencies, parents, and self-referrals. Under the law, a youth service bureau must be the coordinating unit of community-based services to provide comprehensive delivery of prevention, intervention, treatment, and follow-up services (CGS § 10-19m).

§ 2 — MANDATORY PREARREST DIVERSION PLAN

Establishes an implementation team to develop a mandatory prearrest diversion plan for low-risk children

Implementation Team

The bill establishes an implementation team and requires it to (1) develop a plan for mandatory prearrest diversion of low-risk children and (2) in doing so, consider stakeholder input, including from children, families, and law enforcement officials.

The implementation team must include (1) the commissioners of the departments of Children and Families (DCF), Education (SDE), and Correction (DOC), or their designees; (2) the judicial branch's Court Support Services Division's (CSSD) executive director, or the executive director's designee; and (3) representatives of local and regional boards of education, appointed by the JJPOC chairpersons.

The Plan

By July 1, 2024, the implementation team must develop a plan for automatic prearrest diversion of children to the community-based diversion system or other community-based providers instead of arrest for first or second offenses. The bill specifies that this includes offenses such as 2nd degree breach of peace and 5th degree larceny (both class B

misdemeanors).

The bill requires the implementation team, when developing the plan, to consider and include data on prearrest diversionary measures implemented pursuant to the community-based diversion system (including the mandatory referrals in § 1 described above).

The plan must also consider:

1. the capacity of youth service bureaus and other local agencies who will provide services to children diverted under the plan,
2. accountability mechanisms to measure success of these services,
3. processes for victim input and involvement,
4. data collection to track referrals of diverted children to youth service bureaus,
5. communication and outreach strategies to stakeholders for the purpose of accessing local services,
6. dates to fully implement the plan, and
7. any other considerations the team finds necessary for the plan's successful implementation.

Plan Submission and Report on Findings

By July 1, 2024, the implementation team must submit the plan for automatic prearrest diversion of children and report its findings and recommendations to JJPOC. The implementation team must terminate on the date it submits its report or January 1, 2025, whichever is later.

§ 3 — JUVENILE JUSTICE POLICY AND OVERSIGHT COMMITTEE (JJPOC)

Expands JJPOC's membership by adding two people under age 26 and a community member with relevant experience; designates one of JJPOC's existing subcommittees as the "education subcommittee"; establishes the incarceration and community enterprise subcommittees; requires these subcommittees to help specified state agencies develop certain plans

Membership

The bill adds three people to JJPOC's membership as follows:

1. two children, youths, or young adults under age 26 with lived experience in the juvenile justice system and
2. one community member, who may be a family member of a child who has been involved with the juvenile justice system or a credible messenger with lived experience in the system and who works with youth in the system.

These new members must be nominated by the community expertise subcommittee (see below) and appointed by the committee's chairpersons. The chairs must each appoint one of the new members under age 26, and together they must appoint the other new member.

Subcommittees

Education. Current law required JJPOC to convene a subcommittee to, generally, develop a detailed plan on the coordination and oversight of all educational services and programs for children in justice system custody and the provision of education-related transitional support services for their return to the community. The bill specifically names this the education subcommittee and adds to its purpose by requiring it to also fulfill tasks, as directed by the committee, and consult in developing the reentry success plan (see § 5 below).

Incarceration and Community Expertise. The bill requires JJPOC to appoint people to an incarceration subcommittee and a community expertise subcommittee to help develop a reentry success plan (see § 5 below) and fulfill other tasks, as the committee directs. The incarceration subcommittee must also help develop a commissary implementation plan (see § 4 below).

§ 4 — DEPARTMENT OF CORRECTION COMMISSARY IMPLEMENTATION PLAN

Requires DOC to (1) in consultation with JJPOC's incarceration subcommittee, develop and submit a commissary implementation plan to JJPOC and (2) fully implement the plan by November 1, 2023

By July 1, 2023, the bill requires DOC, in consultation with JJPOC's incarceration subcommittee the bill creates, to develop and submit a

commissary implementation plan to JJPOC.

The plan must provide for the following regarding youths in DOC facilities:

1. an integrated positive behavior motivation system to engage and reinforce positive youth behaviors and expectations that can be used to pay for commissary goods in place of money;
2. revised commissary policies and procedures to include the development and implementation of these motivation policies and procedures;
3. increased incentives to promote good health and recognize a diverse range of ethnic groups, races, sexes, and cultural backgrounds;
4. identification of youth within the institution that do not have equitable access to the commissary (see below) and strategies to implement equitable access;
5. provision of menstrual products as required by law;
6. transition of saved commissary allocations, including how associated saved funds can be transitioned and accessed when a youth is transferred to an adult facility;
7. ongoing training and assistance, such as that provided through the Capitol Region Education Council's Positive Behavioral Intervention and Supports;
8. a continuous quality improvement system for the plan's ongoing implementation; and
9. biannual surveys or focus groups to get feedback from youth in DOC facilities on (a) ways to improve DOC's system and (b) the plan's implementation.

The bill requires DOC to immediately implement procedures for more equitable commissary options for youth within the institution that

do not have equitable access to the commissary, including those who are indigent, without family support, or with disabilities that contribute to lack of access. DOC must fully implement the plan by November 1, 2023.

§ 5 — REENTRY SUCCESS PLAN

Requires CSSD, DCF, SDE, and DOC, by November 1, 2023, and in consultation with JJPOC's incarceration, community expertise, and education subcommittees, to develop a reentry success plan for youth released from DOC and the Judicial Department's facilities and programs

By November 1, 2023, the bill requires the CSSD executive director and the DCF, SDE, and DOC commissioners, or their designees, in consultation with JJPOC's incarceration, community expertise, and education subcommittees, to develop a reentry success plan for youth released from DOC and the Judicial Department's facilities and programs. The CSSD executive director and the DCF, SDE, and DOC commissioners, or their designees, must report the plan to JJPOC by January 1, 2024.

Purpose

Under the bill, the plan's purpose is to successfully reintegrate youth into their communities. In developing the plan, the executive director and commissioners, or their designees, in consultation with the specified subcommittees, must consider all aspects deemed necessary to successfully implement the plan, including:

1. reentry models and best practices around the country, including reentry hubs, community-based, enhanced reentry wraparound services, and transitional housing; and
2. expansion of community reentry roundtables and welcome centers that focus on youth.

Principles and Frameworks

Under the bill, the plan must also incorporate restorative and transformative justice principles and include a quality assurance framework.

Restorative and Transformative Justice Principles. These

principles must include the:

1. provision of individualized academic support and the role of school districts in ensuring the provision of academic, vocational, and transition support services;
2. connection of youth to vocational and workforce opportunities and developmentally appropriate housing;
3. delivery of trauma-informed mental health and substance use treatments;
4. development of restorative justice reentry circles;
5. use of credible messengers as mentors or transition support providers; and
6. role of reentry coordinators.

Quality Assurance Framework. The plan must also include a proposed quality assurance framework, including the collection of appropriate data, promulgation of a public dashboard, and monitoring framework to ensure the successful discharge and reentry of incarcerated youth.

Funding Sources Information

Additionally, the plan must include information on federal and state funding sources supporting a comprehensive reentry model and the identification of implementation priorities and appropriate timelines.

§ 6 — PLAN TO SECURELY HOUSE PERSONS UNDER AGE 18

Requires the judicial branch, by July 1, 2023, to begin reviewing and updating the existing implementation plan to securely house in the branch's custody anyone under age 18 who is arrested and detained

Plan Review and Update

PA 21-174, § 13, required the judicial branch to develop an implementation plan to securely house in its custody anyone under age 18 who is arrested and detained prior to sentencing or disposition, starting in 2023.

By July 1, 2023, the bill requires the judicial branch to begin reviewing and updating this plan. In the update, the branch must include provisions for the full and final transition of all children from DOC into the branch's care and custody. The updated plan must include a phased-in timetable for full implementation and estimated costs for each phase.

Submission of Updated Plan and Recommendations

By December 15, 2023, the bill requires the judicial branch to submit the updated implementation plan, along with any recommendations for legislation, funding, or policy changes, to the Judiciary Committee and JJPOC.

§§ 7 & 8 — RACIAL PROFILING

Prohibits police officers from engaging in racial profiling based, in "whole or in part," on a person's perceived racial or ethnic status; creates an exception when the officer is using the person's status in combination with other information when looking for a specific suspect who fits that description

The law prohibits members of the State Police, municipal police departments, and any other law enforcement agency from engaging in racial profiling. Under current law, "racial profiling" is the detention, interdiction, or other disparate treatment of an individual solely based on his or her racial or ethnic status.

The bill broadens this law's applicability by generally prohibiting police officers from doing these actions based in whole or in part, rather than solely, on the person's racial or ethnic status. It also specifies that the determination is based on the person's perceived racial or ethnic status.

The bill creates an exception by allowing police officers to take these actions when the perceived racial or ethnic status is used in combination with other information when the officer is seeking to apprehend a specific suspect whose racial or ethnic status is part of the suspect's description.

It also makes technical and conforming changes in line with the new definition, including conforming changes in the laws governing police traffic and pedestrian stops.

§ 8 — TRAFFIC AND PEDESTRIAN STOPS

Expands police traffic stop information recording and reporting requirements to include pedestrian stops; transfers certain reporting requirements from OPM to UConn's Institute for Municipal and Regional Policy; temporarily suspends certain reporting requirements

Updated Prohibition on Racial Profiling

Under current law, municipal police departments, the Department of Emergency Services and Public Protection (DESPP), and other departments that include or oversee police officers (hereinafter, “police departments”; see *Background*) must adopt a written policy prohibiting stopping, detaining, or searching anyone solely motivated by consideration of race, color, ethnicity, age, gender, or sexual orientation. The bill broadens this to also apply to pedestrian stops (see below) and makes this prohibition apply to traffic or pedestrian stops or searches motivated, in part or in whole, on any of these attributes, with a similar exception as noted above. Specifically, the policies are not required to prohibit the consideration of these factors in combination with other identifying factors when trying to find and apprehend a specific suspect whose race, color, ethnicity, age, or gender is part of the suspect’s description.

It also removes the provision that requires the policy to consider any violation of this traffic stop policy to be a civil rights violation.

Under the bill, a “pedestrian stop” is a detention of a pedestrian by a police officer, not associated with a call for service, that results in a citation, an arrest, a frisking, or search of the pedestrian’s body or property. It does not include a detention for routine searches done at a point of entry or exit from a controlled area or an arrest or search pursuant to a warrant issued by a Superior Court judge.

Data Recording and Method

By law, police departments must (1) record, retain, and report traffic stop information; (2) use OPM’s standardized method and form to do so (see below); and (3) give copies of, and disposition information about, traffic stop-related complaints to OPM and the chief state’s attorney. The bill broadens these requirements to include similar information on pedestrian stops; and requires that information about

complaints be sent to UConn's Institute for Municipal and Regional Policy instead of OPM.

Immunity From Civil Liability

Existing law protects police officers who record traffic stop information in good faith from civil liability, unless their conduct in doing so is unreasonable or reckless. The bill extends this protection to officers who record pedestrian stop information under these same conditions.

OPM's Standardized Method and Guidelines for Collecting and Reporting Information on Traffic and Pedestrian Stops

Current law required OPM, by July 1, 2013, to develop and implement a standardized method and guidelines for police departments to collect and record traffic stop information. OPM had to do so within available resources and in consultation with the Racial Profiling Prohibition Project Advisory Board and the Criminal Justice Information System Governing Board.

The bill requires that by October 1, 2023, OPM develop and implement these standardized methods and guidelines for the collection and recording of information on pedestrian stops, not just traffic stops.

Under the standardized method, current law requires the police to record specific information during traffic stops, such as the motor vehicle operator's race, color, ethnicity, age, and gender. The bill generally requires the same information to be recorded during pedestrian stops, but it eliminates the requirement to record the color of the operator or pedestrian.

Among other things, current law's standardized method requires that a notice be given to drivers during traffic stops, advising them of their right to file a complaint if they believe the stop was solely due to specified factors (e.g., race, gender, or age). The bill also applies this to pedestrian stops. For either type of stop, it instead requires that the notice advise the person of their right to file a complaint if he or she believes that the officer acted, in whole or in part, based on any of the listed attributes, not just solely on that basis.

The bill similarly requires OPM, by October 1, 2023, and in consultation with the Racial Profiling Prohibition Project Advisory Board, to incorporate pedestrian stops into its guidelines for (1) training police officers on how to complete the standardized form and (2) evaluating the information that the officers collect for use in this training.

The bill eliminates an obsolete provision on the recording and retention of traffic stop information before OPM's standardized method was developed and implemented.

OPM's Oversight

Current law authorizes the OPM secretary to order an appropriate penalty in the form of withholding state funds from departments that fail to comply with requirements to collect traffic stop information. The bill authorizes OPM to do the same if a department does not comply with the requirements as they relate to pedestrian stops.

Monthly Report on Recorded Information

Current law requires police departments to report monthly to OPM the information recorded for each traffic stop carried out, in a format prescribed by OPM.

The bill suspends this requirement until January 1, 2025. Starting then, it requires departments to (1) include information from pedestrian stops and (2) submit this monthly report to UConn's Institute for Municipal and Regional Policy. Under existing law, unchanged by the bill, the information must be submitted in electronic form.

The bill also deletes an obsolete provision on a reporting requirement that was due by October 1, 2012.

Annual Report on Prevalence and Disposition of Traffic and Pedestrian Stops

The bill transfers, from OPM to UConn's Institute for Municipal and Regional Policy, the duties to (1) within available resources, review the prevalence and disposition of traffic stops and reported complaints; (2) annually report this information to the governor, General Assembly,

and other entities deemed appropriate; and (3) make the report available on its website.

The bill expands the scope of the review and report to include pedestrian stops. It also temporarily suspends the annual reporting requirement by making the next report due by July 1, 2026.

Background — Departments With Authority to Conduct Stops

By law, the above requirements and prohibitions on traffic stops apply to state and municipal police and other departments that include or oversee police officers. (The bill extends these requirements to pedestrian stops.) Under existing law, “police officers” for these purposes specifically include the following, and also others with similar arrest or traffic authority as the state or local police:

1. special policemen appointed by the DESPP commissioner for state property;
2. special policemen or state policemen enforcing traffic regulations at Department of Mental Health and Addiction Services or DCF facilities;
3. policemen appointed by DESPP for a utility or transportation company;
4. the motor vehicles commissioner, deputy commissioners, and designated salaried inspectors (who are authorized, by law, to enforce motor vehicle statutes and regulations);
5. State Capitol Police officers;
6. UConn and Connecticut State University system police;
7. state police enforcing traffic regulations at the Department of Veterans Affairs in Rocky Hill; and
8. fire police (who, by law, have powers over traffic control and regulation).

BACKGROUND***Legislative History***

The House referred the bill (File 622) to the Appropriations Committee, which reported a substitute eliminating provisions in the underlying bill appropriating unspecified funds from the General Fund to (1) OPM to assist with the three new JJPOC members and (2) DOC to fully implement the bill's required commissary implementation plan.

Related Bills

sSB 953 (File 599), reported favorably by the Judiciary Committee, makes similar changes to the definition of "racial profiling" and conforming changes to the traffic stop-related provisions.

HB 6902, reported favorably by the Appropriations Committee, expands the services provided by youth service bureaus, requires these bureaus in municipalities under a certain population, and requires the DCF commissioner and the chief court administrator, in consultation with the Consultation Center at Yale, to develop a new diversion program ("Diversion First") to divert from the juvenile justice and court system juveniles who (1) have committed a first or second criminal offense, (2) have been charged with a minor criminal offense, or (3) are chronically absent from school.

COMMITTEE ACTION

Judiciary Committee

Joint Favorable Substitute

Yea 25 Nay 12 (03/30/2023)

Appropriations Committee

Joint Favorable Substitute

Yea 38 Nay 13 (05/01/2023)