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**ENGROSSED SUBSTITUTE SENATE BILL 5588**

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**State of Washington 65th Legislature 2017 Regular Session**

**By** Senate Ways & Means (originally sponsored by Senators Hasegawa, Saldaña, Chase, Darneille, Schoesler, McCoy, Hobbs, Pedersen, Keiser, Hunt, Rolfes, Kuderer, Conway, and Frockt)

AN ACT Relating to information concerning racial disproportionality; amending RCW 43.88C.010, 43.88A.020, and 43.88C.050; adding a new section to chapter 43.88C RCW; and creating new sections.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF WASHINGTON:

NEW SECTION. **Sec.**  The legislature finds that the health, safety, and productivity of all communities is of the utmost importance to the state of Washington, including historically marginalized racial and ethnic communities. All citizens are harmed by unintended racial and ethnic disparities created by legislation. Therefore, the legislature intends to create a proactive tool intended to provide legislators with aggregated and disaggregated demographical data and other information to help legislators understand possible disparate racial and ethnic impacts, and thus better informed and intentional decisions on legislative proposals.

**Sec.**  RCW 43.88C.010 and 2015 c 128 s 2 are each amended to read as follows:

(1) The caseload forecast council is hereby created. The council shall consist of two individuals appointed by the governor and four individuals, one of whom is appointed by the chairperson of each of the two largest political caucuses in the senate and house of representatives. The chair of the council shall be selected from among the four caucus appointees. The council may select such other officers as the members deem necessary.

(2) The council shall employ a caseload forecast supervisor to supervise the preparation of all caseload forecasts. As used in this chapter, "supervisor" means the caseload forecast supervisor.

(3) Approval by an affirmative vote of at least five members of the council is required for any decisions regarding employment of the supervisor. Employment of the supervisor shall terminate after each term of three years. At the end of the first year of each three-year term the council shall consider extension of the supervisor's term by one year. The council may fix the compensation of the supervisor. The supervisor shall employ staff sufficient to accomplish the purposes of this section.

(4) The caseload forecast council shall oversee the preparation of and approve, by an affirmative vote of at least four members, the official state caseload forecasts prepared under RCW 43.88C.020. If the council is unable to approve a forecast before a date required in RCW 43.88C.020, the supervisor shall submit the forecast without approval and the forecast shall have the same effect as if approved by the council.

(5) A councilmember who does not cast an affirmative vote for approval of the official caseload forecast may request, and the supervisor shall provide, an alternative forecast based on assumptions specified by the member.

(6) Members of the caseload forecast council shall serve without additional compensation but shall be reimbursed for travel expenses in accordance with RCW 44.04.120 while attending sessions of the council or on official business authorized by the council. Nonlegislative members of the council shall be reimbursed for travel expenses in accordance with RCW 43.03.050 and 43.03.060.

(7) "Caseload," as used in this chapter, means:

(a) The number of persons expected to meet entitlement requirements and require the services of public assistance programs, state correctional institutions, state correctional noninstitutional supervision, state institutions for juvenile offenders, the common school system, long-term care, medical assistance, foster care, and adoption support;

(b) The number of students who are eligible for the Washington college bound scholarship program and are expected to attend an institution of higher education as defined in RCW 28B.92.030;

(c) The number of children who are eligible, as defined in RCW 43.215.405, to participate in, and the number of children actually served by, the early childhood education and assistance program.

(8) The caseload forecast council shall forecast the temporary assistance for needy families and the working connections child care programs as a courtesy.

(9) The caseload forecast council shall forecast youth participating in the extended foster care program pursuant to RCW 74.13.031 separately from other children who are residing in foster care and who are under eighteen years of age.

(10) Subject to availability of amounts appropriated for this specific purpose, prior to each legislative session, the caseload forecast council shall prepare and submit to the legislature a general disproportionality report. The general disproportionality report must contain the following information:

(a) A table of percentages based on the total number of adult felony sentences in each crime category, distributed by race and ethnicity;

(b) A table of percentages based on the total number of adult
felony sentences reduced to misdemeanors in each crime category,
distributed by race and ethnicity;

(c) A table of percentages of Washington state's general adult at-risk population, between the ages of eighteen and fifty-four, distributed by race and ethnicity;

(d) A complete list of felony offenses in each crime forecasting category; and

(e) A discussion of limitations in the data presented in (a) and (c) of this subsection.

(11) Unless the context clearly requires otherwise, the definitions provided in RCW 43.88.020 apply to this chapter.

NEW SECTION. **Sec.**  A new section is added to chapter 43.88C RCW to read as follows:

(1) Subject to availability of amounts appropriated for this specific purpose, the caseload forecast council shall establish a procedure for the provision of racial and ethnic impact statements on the effect that legislative bills and resolutions modifying adult felony sentencing will have on racial and ethnic minority groups including, but not limited to, the racial and ethnic composition of the criminal justice system.

(2) Racial and ethnic impact statements must be included with the fiscal note produced by the caseload forecast council on any legislative bill or resolution modifying adult felony sentencing. Racial and ethnic impact statements must include, at a minimum, the following:

(a) An introductory narrative paragraph;

(b) Tables, tailored to the specific fiscal note, displaying:

(i) Percentages of the general adult at-risk population distributed by race and ethnicity and percentages for either the proper crime forecasting category or where available and appropriate, the specific offense, distributed by race and ethnicity; and

(ii) Projected percentages for either the proper crime forecasting category or where available and appropriate, the specific offense, distributed by race and ethnicity, if the proposed bill or resolution is adopted; and

(c) Additional narrative discussing the potential racial and ethnic impacts of the legislation and the limitations of the data, if any.

(3) The caseload forecast council may work in cooperation with appropriate legislative committees and legislative staff, the office of financial management, the department of corrections, the department of social and health services, the administrative office of the courts, the minority and justice commission, the Washington state institute for public policy, and the sentencing guidelines commission to assist in the development of racial impact statements.

(4) This section does not prevent either the house of representatives or the senate from acting on any bill before it as otherwise provided by the state Constitution, by law, or by the rules and joint rules of the senate and house of representatives. The lack of any racial impact statement provided in this section or any error in the accuracy thereof does not affect the validity of any measure otherwise duly passed by the legislature.

**Sec.**  RCW 43.88A.020 and 2011 c 140 s 1 are each amended to read as follows:

The office of financial management shall, in cooperation with appropriate legislative committees and legislative staff, establish a procedure for the provision of fiscal notes on the expected impact of bills and resolutions which increase or decrease or tend to increase or decrease state government revenues or expenditures. Such fiscal notes shall indicate by fiscal year the impact for the remainder of the biennium in which the bill or resolution will first take effect as well as a cumulative forecast of the fiscal impact for the succeeding four fiscal years. Fiscal notes shall separately identify the fiscal impacts on the operating and capital budgets. Estimates of fiscal impacts shall be calculated using the procedures contained in the fiscal note instructions issued by the office of financial management.

In establishing the fiscal impact called for pursuant to this chapter, the office of financial management shall coordinate the development of fiscal notes, and, where applicable, the development of racial impact statements, with all state agencies affected.

The preparation and dissemination of the ongoing cost projections and other requirements of RCW 43.135.031 for bills increasing taxes or fees shall take precedence over fiscal notes.

For proposed legislation that uniquely affects school districts, in addition to any fiscal note prepared under this chapter, a school district fiscal note must be prepared under the process established in RCW 28A.300.0401.

**Sec.**  RCW 43.88C.050 and 2015 c 128 s 3 are each amended to read as follows:

(1) The caseload forecast council shall appoint a research staff of sufficient size and with sufficient resources to accomplish its duties. The caseload forecast council may request from the administrative office of the courts, the department of early learning, the department of corrections, the health care authority, the superintendent of public instruction, the Washington student achievement council, the department of social and health services, and other agencies with caseloads forecasted by the council, such data, information, and data processing assistance as it may need to accomplish its duties, and such services shall be provided without cost to the caseload forecast council.

(2) The caseload forecast council may request from the administrative office of the courts, the department of corrections, and other agencies, such data, information, and data processing assistance as it may need to accomplish its duties, and these services shall be provided without charge to the caseload forecast council.

(3) The caseload forecast council is considered a criminal justice agency within the meaning of RCW 10.97.030.

NEW SECTION. **Sec.**  Subject to availability of amounts appropriated for this specific purpose, the joint legislative audit and review committee, in consultation with the minority and justice commission, sentencing guidelines commission and the Washington state institute for public policy, shall conduct an evaluation of the implementation of this act and submit a report to the appropriate committees of the legislature by December 1, 2020. The report shall include:

(1) Whether the information provided in racial and ethnic impact statements was presented in a clear, concise, and understandable form;

(2) Whether any limitations in transmission of relevant data to the caseload forecast council existed during the pilot project;

(3) The timeliness of the provision of racial and ethnic impact statements under this act;

(4) The cost-effectiveness of the provision of racial and ethnic impact statements under this act;

(5) The extent to which the racial and ethnic impact statements estimate cumulative changes in disproportionality in the criminal justice system resulting from enacted legislation; and

(6) Recommendations to improve the timeliness and accuracy of the process for preparing and distributing racial and ethnic impact statements.

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