
ENGROSSED SUBSTITUTE SENATE BILL 5588

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)

READ FIRST TIME 02/24/17.

1 AN ACT Relating to information concerning racial
2 disproportionality; amending RCW 43.88C.010, 43.88A.020, and
3 43.88C.050; adding a new section to chapter 43.88C RCW; and creating
4 new sections.

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

6 NEW SECTION. **Sec. 1.** The legislature finds that the health,
7 safety, and productivity of all communities is of the utmost
8 importance to the state of Washington, including historically
9 marginalized racial and ethnic communities. All citizens are harmed
10 by unintended racial and ethnic disparities created by legislation.
11 Therefore, the legislature intends to create a proactive tool
12 intended to provide legislators with aggregated and disaggregated
13 demographical data and other information to help legislators
14 understand possible disparate racial and ethnic impacts, and thus
15 better informed and intentional decisions on legislative proposals.

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

18 (1) The caseload forecast council is hereby created. The council
19 shall consist of two individuals appointed by the governor and four
20 individuals, one of whom is appointed by the chairperson of each of

1 the two largest political caucuses in the senate and house of
2 representatives. The chair of the council shall be selected from
3 among the four caucus appointees. The council may select such other
4 officers as the members deem necessary.

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

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

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

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

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

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

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

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

4 (c) The number of children who are eligible, as defined in RCW
5 43.215.405, to participate in, and the number of children actually
6 served by, the early childhood education and assistance program.

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

10 (9) The caseload forecast council shall forecast youth
11 participating in the extended foster care program pursuant to RCW
12 74.13.031 separately from other children who are residing in foster
13 care and who are under eighteen years of age.

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

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

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

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

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

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

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

34 NEW SECTION. Sec. 3. A new section is added to chapter 43.88C
35 RCW to read as follows:

36 (1) Subject to availability of amounts appropriated for this
37 specific purpose, the caseload forecast council shall establish a
38 procedure for the provision of racial and ethnic impact statements on
39 the effect that legislative bills and resolutions modifying adult

1 felony sentencing will have on racial and ethnic minority groups
2 including, but not limited to, the racial and ethnic composition of
3 the criminal justice system.

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

9 (a) An introductory narrative paragraph;

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

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

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

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

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

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

36 **Sec. 4.** RCW 43.88A.020 and 2011 c 140 s 1 are each amended to
37 read as follows:

38 The office of financial management shall, in cooperation with
39 appropriate legislative committees and legislative staff, establish a

1 procedure for the provision of fiscal notes on the expected impact of
2 bills and resolutions which increase or decrease or tend to increase
3 or decrease state government revenues or expenditures. Such fiscal
4 notes shall indicate by fiscal year the impact for the remainder of
5 the biennium in which the bill or resolution will first take effect
6 as well as a cumulative forecast of the fiscal impact for the
7 succeeding four fiscal years. Fiscal notes shall separately identify
8 the fiscal impacts on the operating and capital budgets. Estimates of
9 fiscal impacts shall be calculated using the procedures contained in
10 the fiscal note instructions issued by the office of financial
11 management.

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

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

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

23 **Sec. 5.** RCW 43.88C.050 and 2015 c 128 s 3 are each amended to
24 read as follows:

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

36 (2) The caseload forecast council may request from the
37 administrative office of the courts, the department of corrections,
38 and other agencies, such data, information, and data processing
39 assistance as it may need to accomplish its duties, and these

1 services shall be provided without charge to the caseload forecast
2 council.

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

5 NEW SECTION. **Sec. 6.** Subject to availability of amounts
6 appropriated for this specific purpose, the joint legislative audit
7 and review committee, in consultation with the minority and justice
8 commission, sentencing guidelines commission and the Washington state
9 institute for public policy, shall conduct an evaluation of the
10 implementation of this act and submit a report to the appropriate
11 committees of the legislature by December 1, 2020. The report shall
12 include:

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

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

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

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

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

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

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