WEST VIRGINIA CODE CHAPTER 17G

WV Legislature

§17G-1-1. Definitions.

The following words and phrases, when used in this chapter, shall, for the purposes of this chapter, have the meanings respectively ascribed to them in this article:

(a) "Gross data" means aggregate data regarding the information obtained under section two of this article.

(b) "Law-enforcement agency" means every state, county or municipal agency with officers who are authorized to direct or regulate traffic or to make arrests or issue citations or warnings for violations of traffic laws and ordinances.

(c) "Minority group" means individuals of any ethnic descent, including, but not limited to, African-American, Hispanic, Native American, Middle Eastern, Asian or Pacific Islander.

WV Legislature

§17G-1-2. Information obtained by law-enforcement officers during a traffic stop.

Each time a law-enforcement officer stops a driver of a motor vehicle for a violation of any motor vehicle statute or ordinance, other than for a nonviolation stop, including, but not limited to, a checkpoint for driving under the influence, license, registration or seat belts, the officer shall obtain and prepare a brief report based on the officer's visual observation and perception of basic information about the nature, duration and outcome of the stop, including, but not limited to, information relating to the perceived racial characteristics of each operator stopped. The report is to be provided to the West Virginia law-enforcement agency which employs the law-enforcement officer: Provided, That the failure of the law-enforcement officer to obtain and report racial profiling data shall not affect the validity of the underlying traffic citation or warning.

The information to be collected shall include:

(a) The identifying characteristics of the operator stopped, including perceived race, ethnicity or national origin, gender and age;

(b) The location and duration of the stop;

(c) The traffic violation or violations alleged to have been committed that led to the stop;

(d) Whether or not a warning or citation was issued as a result of the stop and if so, the specific violation, if any, charged or warning given;

(e) Whether a search was performed as a result of the stop;

(f) If a search was performed, whether the person consented to the search, the probable cause or reasonable suspicion for the search, whether the person was searched, whether the person's property was searched and the duration of the search;

(g) If a search was of a passenger in the motor vehicle, the perceived age, gender and race or minority group of the passenger;

(h) Whether any contraband was discovered or seized in the course of the search and the type of any contraband discovered or seized;

(i) Identify whether the search involved canine units or advanced technology; and

(j) Any additional information which the law-enforcement agency considers appropriate.

WV Legislature

§17G-1-3. Law-enforcement officer exemption from civil liability.

Any law-enforcement officer who, in good faith, records traffic stop information under the requirements of section two of this article may not be held civilly liable for the act of inaccurately recording the information unless the officer's conduct was unconstitutional, unreasonable, intentional or reckless.

WV Legislature

§17G-2-1. Format of traffic stops data collection forms.

The Division of Motor Vehicles shall provide a form as required by section three of this article, in both printed and electronic format, to be used by law-enforcement officers when making a traffic stop to record the information listed in section two, article one of this chapter.

WV Legislature

§17G-2-2. Law-enforcement agency traffic stops data collection and submission.

(a) Each law-enforcement agency shall report its data described in section two, article one of this chapter to the Division of Motor Vehicles in a report format as prescribed by the division.

(b) If a law-enforcement agency fails to comply with the provisions of this section, the Division of Motor Vehicles shall notify the agency by certified mail of its failure to comply. If the agency continues to fail to comply, the Governor may withhold state-controlled funds appropriated to the noncompliant law-enforcement agency until reports are made as required by this article.

WV Legislature

§17G-2-3. Analysis of traffic stop statistics, annual report and legislative rules.

(a) To facilitate the commencement of data collection, the Director of the Governor's Committee on Crime, Delinquency and Corrections, in consultation with the Division of Motor Vehicles, shall propose legislative rules in accordance with article three, chapter twenty-nine-a of this code. These rules shall include, but are not limited to:

(1) The manner of reporting the information to the Division of Motor Vehicles;

(2) Promulgation of a form or forms for reporting purposes by various law-enforcement agencies;

(3) A means of reporting the information required in section two, article one of this chapter on warning citations to the Division of Motor Vehicles;

(4) In consultation with the Fraternal Order of Police, the Sheriff's Association, the Deputy Sheriff's Association and representatives of law-enforcement agencies, a means of providing training to law-enforcement officers on completion and submission of the data on the proposed form;

(5) A means of reporting back to individual law-enforcement agencies, from time to time, at the request of a law-enforcement agency on findings specific to that agency in an agreed-upon format to allow the agency to evaluate independently the data provided;

(6) A limitation that the data is to be used solely for the purposes of this chapter;

(7) Safeguards to protect the identity of individual law-enforcement officers collecting data required by section two, article one of this chapter when no citation or warning is issued;

(8) Methodology for collection of gross data by law-enforcement agencies and the analysis of the data;

(9) The number of motor vehicle stops and searches of motor vehicles occupied by members of a perceived minority group; the number of motor vehicle stops and searches of motor vehicles occupied by persons who are not members of a minority group; the population of minorities in the areas where the stops occurred; estimates of the number of all vehicles traveling on the public highways where the stops occurred; factors to be included in any evaluation that the data may indicate racial profiling, racial stereotyping or other race-based discrimination or selective enforcement; and other data deemed appropriate by the Governor's Committee on Crime, Delinquency and Correction for the analysis of the protection of Constitutional rights; and

(10) Protocols for reporting collected data by the Division of Motor Vehicles to the Governor's Committee on Crime, Delinquency and Correction and the analysis thereof.

(b) Annually, on or before February 1, the Director of the Governor's Committee on Crime,

WV Legislature

Delinquency and Correction shall publish a public report of the data collected and provide a copy thereof to all law-enforcement agencies subject to this chapter and provide a copy of the report and analysis of the data collected to the Governor and to the Joint Committee on Government and Finance.

(c) The provisions of sections two and three, article one of this chapter and section two of this article were effective December 31, 2004.

(d) Collection of data pursuant to subsection (a) of this section shall terminate on December 31, 2008. The provisions of this chapter shall be of no force or effect after June 30, 2009.

WV Legislature