

Senate Finance Committee

Deb Martone 271-4980

HB 1528, relative to reporting by the northern border alliance program.

Hearing Date: April 2, 2024

Time Opened: 2:21 p.m.

Time Closed: 2:40 p.m.

Members of the Committee Present: Senators Gray, Innis, Bradley, Birdsell, Pearl and Rosenwald. Senator Soucy attended as an alternate for Senator D'Allesandro.

Bill Analysis: This bill requires the semi-annual report issued by the northern border alliance program to include additional reporting statistics.

Sponsors:

Rep. A. Murray

Rep. M. Perez

Rep. Wallner

Rep. Wilhelm

Rep. Wheeler

Rep. Tellez

Who supports the bill: Representatives Alissandra Murray and Heath Howard; Gilles Bissonnette; Hayden Smith; Julie Zimmer; Eva Castillo; Eileen Brady; Carol Morrison; Elizabeth Mower; Barbara Pugh; Darren Minuti; Jordan King; Chuck Rhoades; Julia Thompson; Haley Demers; James Verschueren; Jonathan Davis; Anthony Holtz; Richard DeMark; Fiona Geary; Linda Benham; Cora Quisumbing-King; Linda Hallock; Lois Cote; Laura Sokoloski; Susan Moore; Phil Hatcher;

Who opposes the bill: Julie Smith; Daniel Richardson;

Summary of testimony presented in support:

Representative Alissandra Murray, Prime Sponsor:

- This bill is relative to the Northern Border Alliance codifying into statute the reporting standards for the Northern Border Alliance program.
- There has been a lack of data on the New Hampshire border side of the Swanton Sector. This bill would ensure we are collecting the data we need to ensure the program is efficient, needed and involves appropriations.
- The House sought to match the reporting standards to the forms used by the Northern Border Alliance.
- There was concern expressed in the House regarding collecting race data. This would only occur when an individual is apprehended due to an arrest warrant in a general encounter.

Representative Heath Howard:

- It is a good idea to have an understanding of how well some of the programs funded by the Legislature and taxpayers are working.

- Generally, our border is handled by Border Patrol. It is necessary to understand how effective our own operation is.

Gilles Bissonnette, Legal Director, ACLU-NH:

- The ACLU continues to have concerns based on the data available about this program. As a result, some additional reporting requirements would make a lot of sense.
- What this bill does is add additional reporting on aggregate data with respect to the municipality/country where the individual resides. It also adds reporting requirements for those who are arrested and cited to include race if such information is included on the complaint/citation.
- One of the concerns of the program is to what extent racial profiling occurs when local law enforcement is deputized to assess whether an individual is undocumented. Having some indication of race could help in the determination of racial profiling. This would simply give the Legislature some data points with respect to this program. It is not intended to burden law enforcement in any way.
- Race is something that exists on the complaint form. It is not always checked off in some instances. It is not mandated that it be recorded. HB 1528 would require if this information is collected when there is an arrest or summons, that it should be reported as an additional data point. Again, it is not mandated collection information. It is merely a piece of information if collected by law enforcement.
- Mr. Bissonnette also clarified testimony he had given on a previous bill, HB 1054-A, regarding an email from the Customs and Border Patrol's counsel dated February 6, 2024 which confirmed the January 31, 2024 data released includes "both apprehensions and encounters".
- Senator Rosenwald inquired if the information required in the bill to be reported is new information, as opposed to what the Department of Safety is currently reporting. Mr. Bissonnette explained they have only received the first report. The reports lists activities such as vehicle stops and pedestrian contacts, which would cover some of the information required in the bill. In response to Senator Rosenwald's question, it would appear the information is being reported. Information such as municipality or country is not mandated and doesn't appear to be recorded on this first report. Neither is race included. The ACLU would support the collection of such information.
- Senator Innis questioned why we would include race as a measure. Mr. Bissonnette explained there are some concerns when areas are being patrolled to evaluate if individuals are undocumented. This might be in the case of someone crossing the border, or they could merely be hiking. When decisions are made as to when to engage in a stop, i.e., suspicion of criminal activity, some of those decisions implicitly might include the color of one's skin. If those picked up are persons of color, we may have an issue. That is the rationale for the legislation. More data is better than less data. Senator Innis inquired if Mr. Bissonnette had any evidence that there is an issue. Mr. Bissonnette indicated we don't have the data under this program. Senator Innis asked why we would include this type of information if we don't know if there is a problem. Mr.

Bissonnette wondered what is wrong with having more data. This information would be of value.

- Senator Rosenwald inquired about the reporting we have from the Department of Safety. Is there any indication that any of these encounters were immigration related? Mr. Bissonnette explained the report includes only three weeks worth of data. He has no indication based on the report that any of the 79 encounters that took place were immigration related. Senator Rosenwald asked if we have any further data, such as what has happened in the first three months of 2024. Mr. Bissonnette has not had the opportunity to review activity reports recently released.
- Senator Soucy inquired about race being reported. She sought to confirm if it was only in the instances of arrest and citation, and only to the extent if provided. It is very narrow. Mr. Bissonnette agreed. It would only be reported if a complaint were filed and so indicated on the complaint. Senator Soucy reiterated this would not occur for all encounters. Only the encounters where there is some violation or citation. Mr. Bissonnette agreed.
- Senator Innis continued to struggle with collecting information on race. What does the color of the skin of the individual tell us? How does that give us useful information that we can then take to improve the situation? Mr. Bissonnette stated there could be disparities. Senator Innis asked for examples. Mr. Bissonnette explained there are differences at borders. If 80 percent of the stops involve people of color that is a data point. Perhaps there is something we can address with respect to the interactions occurring with law enforcement.
- Senator Bradley stated if he were a member of law enforcement, and read Lines 7-9 of this legislation, it would be telling him flat-out to racially profile. He asked Mr. Bissonnette to explain why the legislation is not mandating racial profiling. Mr. Bissonnette respectfully disagreed. He indicated there is a reason why such an item is included on the complaint form. It is a reflection that this type of data has some value in the criminal justice system. Are we doing things right from a racial equity perspective? This information from some degree is already collected. All we are ask is that when it is collected, that is be reported.
- Senator Rosenwald inquired of the Legislative Budget Assistant's Office if Marine Patrol/Fish and Game encounters would be reported. The LBAO was unsure of the MOU agreement details between the Department of Safety and Fish and Game. They will report back to Senate Finance Committee members on their findings.
- Senator Birdsell inquired if the ACLU has requested information on race from the southern border. Mr. Bissonnette was unsure. Senator Birdsell wondered why New Hampshire would have to report on race if the southern border is not. Mr. Bissonnette agreed to follow up on this inquiry and get back to committee members.