



Committee: PS
Committee Review: At a future date
Staff: Ludeen McCartney, Legislative Attorney
Purpose: To receive testimony – no vote expected
Keywords: #STEPAct

AGENDA ITEM #12
April 25, 2023
Public Hearing

SUBJECT

Bill 12-23, Police – Traffic Stops – Limitations (The Safety and Traffic Equity in Policing (STEP) Act)

Lead Sponsor: Councilmember Jawando

Co-Sponsor: Councilmember Mink

EXPECTED ATTENDEES

Members of the Public

COUNCIL DECISION POINTS & COMMITTEE RECOMMENDATION

- N/A; To receive testimony

DESCRIPTION/ISSUE

Bill 12-23 would:

- (1) prohibit a stop for certain traffic offenses by a police officer;
- (2) prohibit consent searches of a vehicle by a police officer;
- (3) require the collection of data and information related to traffic stops;
- (4) exclude the limitations on traffic stops from collective bargaining; and
- (5) generally amend the County law regarding motor vehicle traffic policing.

SUMMARY OF KEY DISCUSSION POINTS

- N/A

This report contains:

Staff Report	Pages 1-3
Bill 12-23	©1-7
Climate Assessment	©8-10
Economic Impact Statement	©11-13
Racial Equity and Social Justice Impact Statement	©14-20

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MEMORANDUM

April 19, 2023

TO: County Council

FROM: Ludeen McCartney-Green, Legislative Attorney

SUBJECT: Bill 12-23, Police – Traffic Stops - Limitations

PURPOSE: Public Hearing – to receive testimony

Bill 12-23, Police – Traffic Stops - Limitations, sponsored by Lead Sponsor Councilmember Jawando with Co-Sponsor Councilmember Mink, was introduced on February 28, 2023. Bill 12-23 is also known as The Safety and Traffic Equity in Policing (STEP) Act. A public hearing is scheduled for April 25, 2023, at 7:00 PM and a Public Safety Committee worksession will be held on July 17, 2023.

Bill 12-23 would prohibit a police officer from conducting a traffic stop for certain offenses under the Maryland Vehicle Law;¹ prohibit consent searches of a vehicle by a police officer; require the collection of data and information related to traffic stops; exclude the limitations on traffic stops from collective bargaining; and generally amend the County law regarding motor vehicle traffic policing.

PURPOSE

The purpose of this bill is to promote fairness by reducing racial disparities that occur during a traffic stop, promote safety, and reduce community trauma by limiting traffic stops, improve community policing relations, and further the County’s Vision Zero goals.

BACKGROUND

Traffic stops are the most frequent type of engagement between police officers and their communities, and at times, may result in harsher consequences than the stop warrants. Pretextual stops are disproportionately carried out against people of color and return little public safety benefits.

In 2021, the Office of Legislative Oversight (OLO) Report 2021-10, A Study on Reassigning Traffic Enforcement from the Montgomery County Police Department to the Montgomery County Department of Transportation, summarizes “...social science research on current racial disparities in traffic enforcement. It notes that racial disparities in traffic stops vary by the type of stop. Black and Latinx drivers are stopped and searched during traffic stops for lower-level traffic violations (minor traffic violations, expired registration, or equipment issues)

¹ Provisions of the Maryland Vehicle Law are codified in Titles 13, 16, 17, 21, and 22 of the Transportation Article of the Annotated Code of Maryland.

at disproportionately higher rates compared to White drivers.”² Further, the OLO Report cites, that a traffic stop occurred more for technical traffic code violations and not necessarily because a driver was driving in an unsafe manner. OLO conducted a dataset analysis of traffic citations by the Section of the Maryland Code. See, [OLO Memorandum report 2022-12](#).

Jurisdictions Limiting Traffic stops

To lessen the racial disparity in traffic enforcement and increase safety, several states and cities have changed or are studying ways to alter traffic enforcement. Berkley, California removed altogether traffic enforcement from the police to the transportation division. Other jurisdictions have banned its police officers from making stops for minor traffic offenses, including, Oakland, California; Lansing, Michigan; Fayetteville, North Carolina; Madison, Wisconsin; and the Commonwealth of Virginia.

The City of Philadelphia (“The City”) passed the Driving Equity Law that went into effect in March 2022.³ The City was one of the first municipalities to place limitations on traffic stops by a police officer for offenses it determined as “secondary violations.” The City reclassified secondary violations to include, among others, unregistered vehicles, certificates of insurance, broken single taillights, and minor vehicle obstructions.⁴

Traffic Enforcement in the County

State law governs traffic enforcement in Maryland, specifically, under the Transportation Article, Title 11 through Title 27, also known as, the Maryland Vehicle Law. State and local law enforcement officers are authorized by state law to enforce traffic laws, stop and detain drivers, issue citations, and/or arrest individuals for violations. This authority is limited to enforcing the provisions in the Maryland Vehicle Law and within the officer’s sworn jurisdiction unless the officer is acting under a mutual aid agreement.⁵ A mutual aid agreement allows a County police officer to conduct a traffic stop throughout the County where authorized. County police officers can make traffic stops on County and state roads.

The Maryland Vehicle Law also provides, that the County has limited authority to exercise and legislate its own police power to regulate the stopping, standing, and parking of vehicles, and to regulate traffic using police officers and traffic control devices in the County.⁶ Section 11-130 of the Transportation Article, defines local authority, as “[...] a local body that, under the laws of this State, has the authority to enact laws and adopt local police regulations relating to traffic.” This Bill seeks to regulate within that scope.

BILL SPECIFICS

² OLO Report 2021-10.

https://www.montgomerycountymd.gov/OLO/Resources/Files/2021_Reports/OLOReport21-10.pdf

³ City of Philadelphia City Council.

<https://phila.legistar.com/LegislationDetail.aspx?ID=5007830&GUID=065348E0-F4F6-4B6A-A088-DF5358E73CD&Options=ID|Text|&Search=210636>. Accessed February 20, 2023.

⁴ OLO Report at Page 11.

⁵ Section 2-105 of the Criminal Procedure Article, Maryland Annotated Code.

⁶ Section 25-102 of the Transportation Article, Maryland Annotated Code.

Bill 12-23 would prohibit traffic stops by Montgomery County police officers based solely on the suspected violation of the following 18 different traffic offenses under the Maryland Vehicle Law, which includes:

- licensing and registration;
- certificate of title or insurance;
- window tinting;
- defective headlamp or taillight;
- illuminated license plate;
- minor obstructions, including, signs, posters, and other nontransparent materials on the windshields; and
- various provisions under Title 22.

The Bill also prohibits an officer from traffic stop of a person for a suspected violation of crossing against a walk signal or crosswalk, better known as, jaywalking.

A police officer who conducts an initial traffic stop for a reason not prohibited under this Bill, and identifies, as a secondary violation, a provision that is included in Section 35-27(c), must, first issue a verbal or written warning for the secondary violation, and for second or subsequent offenses, issue a citation, see lines 76-80 of the Bill.

Further, the Bill limits a police officer's authority to request permission to conduct a search of a person or vehicle during a traffic stop, regardless of whether the person gives their consent to the search. Instead, the Bill places a higher burden that an officer must have reasonable suspicion or probable cause to believe that a criminal offense arose during the stop in order to proceed with a lawful search. An officer who violates a provision under this Article would be subject to disciplinary action in accordance with the State-Approved Uniform Disciplinary Matrix.

Under the Bill, the Chief of Police would be required to collect regular analysis of traffic stop data, report annually to the Council, and publish on its website:

- information on each traffic stop that describes the initial reason justifying the stop;
- any deidentified data collection for bias-related stops on a per-police officer basis;
- any complaints received related to a biased stop by a police officer; and
- a list of alleged and sustained violations of the provisions in this Bill.

The provisions of this Bill would not be subject to collective bargaining.

This packet contains:

Bill 12-23
Climate Assessment
Economic Impact Statement
Racial Equity and Social Justice Impact Statement

Circle #

©1-7
©8-10
©11-13
©14-20

Bill No. 12-23
Concerning: Police – Traffic Stops –
Limitations (The STEP Act)
Revised: 2/22/2023 Draft No. 12
Introduced: February 28, 2023
Expires: December 7, 2026
Enacted: _____
Executive: _____
Effective: _____
Sunset Date: None
Ch. _____, Laws of Mont. Co. _____

COUNTY COUNCIL FOR MONTGOMERY COUNTY, MARYLAND

Lead Sponsor: Councilmember Jawando
Co-Sponsor: Councilmember Mink

AN ACT to:

- (1) prohibit a stop by a police officer for certain traffic offenses;
- (2) prohibit consent searches of a vehicle by a police officer;
- (3) require the collection of data and information related to traffic stops;
- (4) exclude the limitations on traffic stops from collective bargaining; and
- (5) generally amend the County law regarding motor vehicle traffic policing.

By amending

Montgomery County Code
Chapter 33, Personnel and Human Resources
Section 33-80

By adding

Montgomery County Code
Chapter 35, Police
Article V, Traffic Stops
Sections 35-26, 35-27, 35-28, and 35-29

Boldface	<i>Heading or a defined term.</i>
<u>Underlining</u>	<i>Added to existing law by original bill.</i>
[Single boldface brackets]	<i>Deleted from existing law by original bill.</i>
<u>Double underlining</u>	<i>Added by amendment.</i>
[[Double boldface brackets]]	<i>Deleted from existing law or the bill by amendment.</i>
* * *	<i>Existing law unaffected by bill.</i>

The County Council for Montgomery County, Maryland, approves the following act:

1 **Sec 1. Short Title.**

2 This Act may be cited as “The Safety and Traffic Equity in Policing (STEP)
3 Act.”

4 **Sec 2. Section 33-80 is amended and Article V of Chapter 35 (Sections 35-
5 26, 35-27, 35-28, and 35-29) is added as follows:**

6 **33-80. Collective bargaining.**

7 * * *

8 (c) *Exemptions.*

9 (1) Nothing contained in this article shall be construed to limit the
10 discretion of the employer voluntarily to discuss with the
11 representatives of its employees any matter concerning the
12 employer’s exercise of any of the enumerated rights set forth in
13 subsection 33-80(b) above, but such matters shall not be subject
14 to bargaining.

15 (2) The minimum standards of the policies adopted by the Police
16 Chief under Section 35-22 must not be subject to bargaining.

17 (3) The provisions under Article V in Chapter 35 must not be subject
18 to collective bargaining.

19 * * *

20 **ARTICLE V. TRAFFIC STOPS.**

21 **35-26. Definitions.**

22 (a) Definitions. In this Section, the following terms have the meanings
23 indicated.

24 Biased stop means a traffic stop in which a member inappropriately

25 considers characteristics such as race, ethnicity, national origin,
 26 religion, sex, sexual orientation, gender identity or expression, socio-
 27 economic status, age, or disability, in deciding whether to initiate a stop.
 28 Maryland Vehicle Law means the Transportation Article of the
 29 Maryland Code, specifically, Title 13, 16, 17, 21, and 22, as amended.
 30 Police officer means a sworn officer employed by the County to direct
 31 or regulate traffic or arrest for violations of any provisions of the
 32 Maryland Vehicle Law, local traffic laws, or regulations.
 33 Traffic stop means any instance when a police officer stops the driver
 34 of a motor vehicle in the County and detains the driver for any period
 35 of time.

36 **35-27. Traffic Stops – Limitations.**

- 37 (a) Intent. The intent of this Article is to:
 38 (1) promote fairness to reduce racial disparities;
 39 (2) promote safety and reduce community trauma;
 40 (3) improve community policing relations; and
 41 (4) further the County’s Vision Zero goals.
 42 (b) Compliance with laws. The provisions under this Section must comply
 43 with the Constitution of the United States and the State of Maryland.
 44 (c) Limitation on traffic stops. A police officer must not conduct a stop or
 45 detain a person operating a motor vehicle, solely for a suspected
 46 violation of the following provisions of the Maryland Vehicle Law:

- 47 (1) under Title 13, 16, or 17 of the Transportation Article, including
48 certificates of title, vehicle licensing, registration, or insurance;
49 or
50 (2) under Title 22 of the Transportation Article:
51 (A) §22-101(a). Driving with improper equipment;
52 (B) §22-201.1. Lighted lamps required;
53 (C) §22-201.2. Use of headlights while windshield wipers are
54 operated under certain weather conditions;
55 (D) §22-203(b). Headlights;
56 (E) §22-204(f). Illumination of rear license plate;
57 (F) §22-206. Stop lamps and turn signals;
58 (G) §22-209. Color of lamps and lighting equipment;
59 (H) §22-210(c). Rear red-light reflectors;
60 (I) §22-219(a). Stoplights;
61 (J) §22-219(g). Glare or dazzling lamp lights;
62 (K) §22-223. Use of multi-beam road lighting;
63 (L) §22-226(a). Number of driving lights required;
64 (M) §22-404(a). Signs, posters, and other nontransparent
65 materials on windshields; or
66 (N) §22-406. Window Tinting; and
67 (O) nothing in this subsection prohibits a police officer from
68 conducting a traffic stop if the driver of a motor vehicle
69 does not have at least one lighted headlamp and one rear
70 lamp light displayed; or

- 71 (3) a police officer must not conduct a traffic stop of a person for a
72 suspected pedestrian violation under Title 21 of the
73 Transportation Article:
- 74 (A) §21-203(c). Crossing against a walk signal; or
75 (B) §21-503. Crossing at other than crosswalks.
- 76 (d) Warning and citations for secondary violations. A police officer who
77 conducts a traffic stop and identifies, as a secondary traffic violation, a
78 violation of any Maryland Vehicle Law stated in subsection (c), must:
- 79 (1) for the first offense, issue a verbal or written warning; and
80 (2) for a second or subsequent offense, issue a citation.
- 81 (e) Limitation on questioning and consent searches.
- 82 (1) A police officer must not extend the duration of a traffic stop for
83 longer than needed to address the original purpose of the stop
84 unless:
- 85 (A) there is reasonable articulable suspicion that a crime has
86 been committed; or
- 87 (B) is being committed.
- 88 (2) A police officer must only ask for permission to conduct a
89 consent search of a person or vehicle if reasonable suspicion or
90 probable cause for a criminal offense arises during the stop.
- 91 (f) Disciplinary action. A violation of a provision under subsection (c) or
92 (e) by a police officer would be subject to disciplinary action in
93 accordance with the Approved Uniform Disciplinary Matrix prepared
94 by the Maryland Police Training and Standards Commission.

95 **35-28. Reporting requirements.**

96 (a) Reporting requirements.

97 (1) In conjunction with the reporting requirements under §25-113 of
98 the Transportation Article of the Maryland Code, a police officer
99 must collect data and information for each traffic stop that
100 describes the initial reason justifying the stop; and

101 (2) a police officer may, under a policy directive or applicable law,
102 issue a warning or citation for an offense that differs from the
103 initial reason for the stop, but the report must state the initial
104 reason.

105 (b) Annual report – required. By July 1 of each year, the Chief of Police
106 must submit to the County Executive and the County Council and
107 publish on its website, a report for the preceding year on:

108 (1) data on each traffic stop as specified in subsection (a);

109 (2) any deidentified data collection related to biased stops on a per-
110 police officer basis;

111 (3) any complaints received by the Montgomery County Police
112 Department related to a biased stop by a police officer; and

113 (4) a list of allegations and sustained violations of the provisions in
114 this Article by a police officer.

115 **35-29. Severability clause.**

116 The provisions of this Article are severable and if any
117 provisions, clause, sentence, section, word, or part is held illegal,
118 invalid, unconstitutional, or inapplicable to any person or

119 circumstances, such illegality, invalidity, or unconstitutionality, or
120 inapplicability must not affect or impair any of the remaining
121 provisions, clauses, sentences, sections, words or parts of the Article or
122 their applications to other persons or circumstances. It is the legislative
123 intent that this Article would have been adopted if such illegal, invalid,
124 or unconstitutional provision, clause, sentence, section, word, or part
125 had not been included, and if the person or circumstance to which the
126 Article or part is inapplicable had been specifically exempted from such
127 provisions.

Climate Assessment

Office of Legislative Oversight

Bill 12-23: Police – Traffic Stops – Limitations

SUMMARY

The Office of Legislative Oversight (OLO) anticipates Bill 12-23 will have no impact on the County's contribution to addressing climate change as the actions proposed by the Bill will likely not affect greenhouse gas emissions, nor community resilience.

BACKGROUND AND PURPOSE OF BILL 12-23

Racial disparities in traffic stops, the most frequent type of engagement between police offices and the public, has been a concern nationally and locally.¹ As described in OLO Report 2021-10, “[s]tudies show that Black and Latino drivers are stopped and searched during traffic stops for lower-level traffic violations at disproportionately higher rates compared to White drivers.”² Locally, OLO Report 2022-12 recently found that racial disparities in traffic stops persisted or worsened between FY18 and FY22.³

As described in the introduction staff report, the purpose of Bill 12-23, the Safety and Traffic Equity in Policing (STEP) Act, “is to promote fairness by reducing racial disparities that occur during a traffic stop, promote safety and reduce community trauma by limiting traffic stops, improve community policing relations, and further the County's Vision Zero goals.” If enacted, Bill 12-23 would:⁴

- **Prohibit a police officer from conducting a stop for certain traffic offenses.** The Bill would prohibit traffic stops by police officers based solely on suspected violation of traffic offenses related to licensing and registration; certificate of title or insurance; window tinting; defective headlamp or taillight; illuminated license plate; minor windshield obstructions; and other provisions under Title 22 of Maryland Vehicle Law. The Bill would also prohibit traffic stops of a person for suspected violation of crossing against a walk signal or crosswalk (i.e., jaywalking). If a police officer identifies one of these offenses as a secondary violation after conducting an initial traffic stop for a reason not prohibited under this Bill, the officer must first issue a verbal or written warning for the secondary violation and issue a citation for the second or subsequent offenses.
- **Prohibit a police officer from conducting consent searches of a vehicle.** Under the Bill, a police officer could ask for permission to conduct a consent search of a person or vehicle only if the officer has reasonable suspicion or probable cause to believe that a criminal offense arose during the traffic stop.
- **Require the collection of data and information related to traffic stops.** The Bill would require the Chief of Police to collect, publish, and report traffic stop data on the initial reason justifying each traffic stop; biased stops on a per-police officer basis;⁵ complaints related to a biased stop by a police officer; and alleged and sustained violations of provisions of this Bill.

The provisions of this Bill would be excluded from collective bargaining. An officer who violates a provision under this Bill would be subject to disciplinary action in accordance with the state approved Uniform Disciplinary Matrix.⁶

Bill 12-23, Police – Traffic Stops – Limitations, was introduced by the Council on February 28, 2023.

ANTICIPATED IMPACTS

As Bill 12-23’s proposed actions would likely have no effect on greenhouse gas emissions or community resilience, OLO anticipates the Bill will have no impact on the County’s contribution to addressing climate change.

RECOMMENDED AMENDMENTS

The Climate Assessment Act requires OLO to offer recommendations, such as amendments or other measures to mitigate any anticipated negative climate impacts.⁷ OLO does not offer recommendations or amendments as Bill 12-23 is likely to have no impact on the County’s contribution to addressing climate change, including the reduction and/or sequestration of greenhouse gas emissions, community resilience, and adaptative capacity.

CAVEATS

OLO notes two caveats to this climate assessment. First, predicting the impacts of legislation upon climate change is a challenging analytical endeavor due to data limitations, uncertainty, and the broad, global nature of climate change. Second, the analysis performed here is intended to inform the legislative process, not determine whether the Council should enact legislation. Thus, any conclusion made in this statement does not represent OLO’s endorsement of, or objection to, the bill under consideration.

PURPOSE OF CLIMATE ASSESSMENTS

The purpose of the Climate Assessments is to evaluate the anticipated impact of legislation on the County’s contribution to addressing climate change. These climate assessments will provide the Council with a more thorough understanding of the potential climate impacts and implications of proposed legislation, at the County level. The scope of the Climate Assessments is limited to the County’s contribution to addressing climate change, specifically upon the County’s contribution to greenhouse gas emissions and how actions suggested by legislation could help improve the County’s adaptative capacity to climate change, and therefore, increase community resilience.

While co-benefits such as health and cost savings may be discussed, the focus is on how proposed County bills may impact GHG emissions and community resilience.

CONTRIBUTIONS

OLO staffer Kaitlyn Simmons drafted this assessment.

¹ Introduction Staff Report for Bill 12-23, Montgomery County Council, Introduced February 28, 2023.

https://www.montgomerycountymd.gov/council/Resources/Files/agenda/col/2023/20230228/20230228_2B.pdf

² Leslie Rubin and Blaise DeFazio, OLO Report 2021-10, Office of Legislative Oversight, July 27, 2021.

https://www.montgomerycountymd.gov/OLO/Resources/Files/2021_Reports/OLOReport21-10.pdf

³ Natalia Carrizosa, OLO Memorandum Report 2022-12, Office of Legislative Oversight, October 25, 2022.

https://www.montgomerycountymd.gov/OLO/Resources/Files/2022_reports/OLOReport2022-12.pdf

⁴ Introduction Staff Report for Bill 12-23

⁵ Under Bill 12-23, a biased stop is defined as a traffic stop in which a member inappropriately considers characteristics such as race, ethnicity, national origin, religion, sex, sexual orientation, gender identity or expression, socio-economic status, age, or disability, in deciding whether to initiate a stop.

⁶ Statewide Police Disciplinary Matrix, Maryland Police Training & Standards Commission, June 9, 2022.

https://mdle.net/pdf/Commission_Approved_Uniform_Disciplinary_Matrix.pdf

⁷ Bill 3-22, Legislative Branch – Climate Assessments – Required, Montgomery County Council, Effective date October 24, 2022

Economic Impact Statement

Montgomery County, Maryland

Bill 12-23 Police – Traffic Stops – Limitations

SUMMARY

The Office of Legislative Oversight (OLO) anticipates that enacting Bill 12-23 would have an insignificant impact on economic conditions in the County in terms of the Council’s priority indicators.

BACKGROUND AND PURPOSE OF BILL 12-23

Racial disparities in traffic stops, the most frequent type of engagement between police offices and the public, has been a concern nationally and locally.¹ As described in OLO Report 2021-10, “[s]tudies show that Black and Latino drivers are stopped and searched during traffic stops for lower-level traffic violations at disproportionately higher rates compared to White drivers.”² Locally, OLO Report 2022-12 recently found that racial disparities in traffic stops persisted or worsened between FY18 and FY22.³

As described in the introduction staff report, the purpose of Bill 12-23, the Safety and Traffic Equity in Policing (STEP) Act, “is to promote fairness by reducing racial disparities that occur during a traffic stop, promote safety and reduce community trauma by limiting traffic stops, improve community policing relations, and further the County’s Vision Zero goals.” If enacted, Bill 12-23 would:⁴

- **Prohibit a police officer from conducting a stop for certain traffic offenses.** The Bill would prohibit traffic stops by police officers based solely on suspected violation of traffic offenses related to licensing and registration; certificate of title or insurance; window tinting; defective headlamp or taillight; illuminated license plate; minor windshield obstructions; and other provisions under Title 22 of Maryland Vehicle Law. The Bill would also prohibit traffic stops of a person for suspected violation of crossing against a walk signal or crosswalk (i.e., jaywalking). If a police officer identifies one of these offenses as a secondary violation after conducting an initial traffic stop for a reason not prohibited under this Bill, the officer must first issue a verbal or written warning for the secondary violation, and issue a citation for the second or subsequent offenses.
- **Prohibit a police officer from conducting consent searches of a vehicle.** Under the Bill, a police officer could ask for permission to conduct a consent search of a person or vehicle only if the officer has reasonable suspicion or probable cause to believe that a criminal offense arose during the traffic stop.
- **Require the collection of data and information related to traffic stops.** The Bill would require the Chief of Police to collect, publish, and report traffic stop data on the initial reason justifying each traffic stop; biased stops on a

¹ [Introduction Staff Report for Bill 12-23](#).

² Rubin Blaise DeFazio, [OLO Report 2021-10](#).

³ Carrizosa, [OLO Memorandum Report 2022-12](#).

⁴ [Introduction Staff Report for Bill 12-23](#)

per-police officer basis;^v complaints related to a biased stop by a police officer; and alleged and sustained violations of provisions of this Bill.

The provisions of this Bill would be excluded from collective bargaining. An officer who violates a provision under this Bill would be subject to disciplinary action in accordance with the state approved Uniform Disciplinary Matrix.⁵

Bill 12-23, Police – Traffic Stops – Limitations, was introduced by the Council on February 28, 2023.

INFORMATION SOURCES, METHODOLOGIES, AND ASSUMPTIONS

Per Section 2-81B of the Montgomery County Code, the purpose of this Economic Impact Statement is to assess the impacts of Bill 12-23 on County-based private organizations and residents in terms of the Council’s priority economic indicators and whether the Bill would likely result in a net positive or negative impact on overall economic conditions in the County.⁶ While changes to policing practices could have indirect economic impacts on individuals, information limitations prevent OLO from estimating them. For this reason, OLO anticipates that the Bill would have an insignificant, direct impact on private organizations, residents, and overall economic conditions in the County in terms of the indicators prioritized by the Council.

VARIABLES

Not applicable

IMPACTS

WORKFORCE ■ TAXATION POLICY ■ PROPERTY VALUES ■ INCOMES ■ OPERATING COSTS ■ PRIVATE SECTOR CAPITAL INVESTMENT ■ ECONOMIC DEVELOPMENT ■ COMPETITIVENESS

Not applicable

DISCUSSION ITEMS

Not applicable

WORKS CITED

[Introduction Staff Report](#) for Bill 12-23. Montgomery County Council. Introduced February 28, 2023.

Rubin, Leslie and Blaise DeFazio. [OLO Report 2021-10](#). Office of Legislative Oversight. July 27, 2021.

Carrizosa, Natalia. [OLO Memorandum Report 2022-12](#). Office of Legislative Oversight. October 25, 2022.

Montgomery County Code. [Sec. 2-81B, Economic Impact Statements](#).

⁵ [Statewide Police Disciplinary Matrix](#).

⁶ Montgomery County Code, [Sec. 2-81B](#).

CAVEATS

Two caveats to the economic analysis performed here should be noted. First, predicting the economic impacts of legislation is a challenging analytical endeavor due to data limitations, the multitude of causes of economic outcomes, economic shocks, uncertainty, and other factors. Second, the analysis performed here is intended to *inform* the legislative process, not determine whether the Council should enact legislation. Thus, any conclusion made in this statement does not represent OLO's endorsement of, or objection to, the Bill under consideration.

CONTRIBUTIONS

Stephen Roblin (OLO) prepared this report.

Racial Equity and Social Justice (RESJ) Impact Statement

BILL 12-23: POLICE – TRAFFIC STOPS – LIMITATIONS (THE STEP ACT)

SUMMARY

The Office of Legislative Oversight (OLO) anticipates Bill 12-23 will have a positive impact on racial equity and social justice (RESJ) in the County. Bill 12-23 would disproportionately benefit Black and Latinx drivers through limiting police stops for traffic offenses with the racial disparities and consensual searches. The Bill aligns with best practices for reducing racial disparities in police stops, which could improve health and other outcomes among Black, Indigenous, and Other People of Color (BIPOC) constituents. Given the potential social benefits, OLO anticipates the positive RESJ impact will be moderate to large. Overall, OLO evaluates Bill 12-23 to be an equitable policy through its prioritization of RESJ.

PURPOSE OF RESJ IMPACT STATEMENTS

The purpose of RESJ impact statements (RESJIS) is to evaluate the anticipated impact of legislation on racial equity and social justice in the County. Racial equity and social justice refer to a **process** that focuses on centering the needs, leadership, and power of communities of color and low-income communities with a **goal** of eliminating racial and social inequities.¹ Achieving racial equity and social justice usually requires seeing, thinking, and working differently to address the racial and social harms that have caused racial and social inequities.²

PURPOSE OF BILL 12-23

Racial disparities in traffic stops, the most frequent type of engagement between police offices and the public, has been a concern nationally and locally.³ As described in OLO Report 2021-10, “[s]tudies show that Black and Latino drivers are stopped and searched during traffic stops for lower-level traffic violations at disproportionately higher rates compared to White drivers.”⁴ Locally, OLO Memorandum Report 2022-12 recently found that racial disparities in traffic stops persisted or worsened between FY18 and FY22.⁵

As described in the introduction staff report, the purpose of Bill 12-23, the Safety and Traffic Equity in Policing (STEP) Act, “is to promote fairness by reducing racial disparities that occur during a traffic stop, promote safety and reduce community trauma by limiting traffic stops, improve community policing relations, and further the County’s Vision Zero goals.” If enacted, Bill 12-23 would:⁶

- **Prohibit a police officer from conducting a stop for certain traffic offenses.** The Bill would prohibit traffic stops by police officers based solely on suspected violation of traffic offenses related to licensing and registration; certificate of title or insurance; window tinting; defective headlamp or taillight; illuminated license plate; minor windshield obstructions; and other provisions under Title 22 of Maryland Vehicle Law. The Bill would also prohibit traffic stops of a person for suspected violation of crossing against a walk signal or crosswalk (i.e., jaywalking). If a police officer identifies one of these offenses for a secondary violation after conducting an initial stop for a reason not prohibited under this Bill, the officer must first issue a verbal or written warning for the secondary violation and issue a citation for the second or subsequent offenses.

RESJ Impact Statement

- **Prohibit a police officer from conducting consent searches of a vehicle.** Under the Bill, a police officer could ask for permission to conduct a consent search of a person or vehicle only if the officer has reasonable suspicion or probable cause to believe that a criminal offense arose during the traffic stop.
- **Require the collection of data and information related to traffic stops.** The Bill would require the Chief of Police to collect, publish, and report traffic stop data on the initial reason justifying each traffic stop; biased stops on a per-police officer basis;⁷ complaints related to a biased stop by a police officer; and alleged and sustained violations of provisions of this Bill.

The provisions of this Bill would be excluded from collective bargaining. An officer who violates a provision under this Bill would be subject to disciplinary action in accordance with the state approved Uniform Disciplinary Matrix.⁸ Bill 12-23, Police – Traffic Stops – Limitations (The STEP Act), was introduced by the Council on February 28, 2023. In October 2022, OLO published Memorandum Report 2022-12, Analysis of dataMontgomery Traffic Violations Dataset. OLO builds on this report for this analysis.⁹

POLICE STOPS AND RACIAL EQUITY

For decades, it has been established that Black and Latinx drivers in the U.S. are subjected to law enforcement traffic stops at disproportionately high rates.¹⁰ This is true locally as evidenced by data describing racial and ethnic disparities in traffic stops in the Appendix. This is just one phenomenon attributed to racial profiling – a discriminatory practice by law enforcement where individuals are targeted for suspicion of crime, based on race, ethnicity, religion, or national origin.¹¹

Modern policing in the U.S. emerges from a legacy of racial inequity. The earliest policing efforts, slave patrols, were charged with policing free and enslaved Black people to instill fear and deter slave revolts.¹² The growth of police departments in the early twentieth century coincided with the expansion of car ownership in the U.S.¹³ As traffic law enforcement increased police interactions with average citizens, racial inequities surfaced. By the 1930s, the NAACP began receiving numerous complaints of police abuse and violence towards Black drivers.¹⁴

In *Pulled Over: How Police Stops Define Race and Citizenship*, its authors consider the investigatory stop, “a police stop where the intent is not to sanction a driving violation but to look for evidence of more serious criminal wrongdoing.” The authors distinguish investigatory stops from traffic-safety stops, arguing “[t]he investigatory stop is why [B]lacks are stopped at much higher rates than [W]hites and why police pursue intrusive lines of questioning and searches more commonly in stops of [B]lacks than of [W]hites.” Observations from the book include: ¹⁵

- Investigatory stops arose as a practice in police departments in the 1970s and 1980s amid harsher enforcement of ordinary street disorder and drugs. Investigatory stops have since evolved to become an institutionalized practice, “supported and legitimated by rules, training, and law, and that spread widely to become a commonly accepted activity.”
- Regardless of officer discriminatory intent, investigatory stops inherently exacerbate racial disparities by “encouraging officials to act on implicit [racial] stereotypes when deciding whom to stop.” Officers typically identify a pretext – often a minor traffic violation – to justify an investigatory stop, though the intent is “to criminally investigate the driver in the hope of making an arrest.” Yet, the vast majority of stops and searches do not uncover illegal activity. Thus, investigatory stops sacrifice “the liberty and dignity of large numbers of innocent people, who are disproportionately racial minorities, in pursuit of a small number who are dangerous or carrying contraband.”

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- Black drivers recognize when they are being subjected to an investigatory stop, and recall these experiences with fear and resentment, despite officer politeness. In contrast, “Whites almost exclusively experience traffic-safety stops and generally judge these stops to be basically fair.” The stark difference in how police stops are experienced by Black drivers and White drivers makes them “a defining aspect of the racial divide in America.” All in all, the experiences of BIPOC with investigatory stops “erodes drivers’ overall trust in the police, willingness to call the police for help, sense of their own freedom to drive, and sense of their place in society.”

OLO Report 2021-10 cited several studies indicating that Black and Latinx drivers in the U.S. are stopped and searched for minor traffic violations – technical violations of the traffic code as opposed to dangerous or unsafe driving – at disproportionately high rates compared to White drivers.¹⁶ OLO Memorandum Report 2022-12 subsequently studied racial disparities in over 300,000 traffic stops by the Montgomery County Police Department (MCPD) between FY18 and FY22, finding the following at the local level:¹⁷

- Asian and White drivers accounted for smaller percentages of traffic stops (6% and 35%, respectively) than their population percentages (16% and 43%, respectively). Asian and White drivers were also underrepresented in searches (3% and 21%, respectively) and arrests (3% and 21%, respectively).
- Black drivers accounted for a higher percentage of traffic stops (30%), searches (43%), and arrests (38%) than the percentage of the adult population that is Black (18%).
- Latinx drivers accounted for a higher percentage of traffic stops (21%), searches (31%), and arrests (35%) than the percentage of the population that is Latinx (19%).
- Overall, White female drivers were the most underrepresented group in traffic stops, and Black male drivers were the most overrepresented group.

Moreover, as noted in the Appendix, racial disparities in traffic stops were evident among MCPD traffic stops by jurisdiction. For example, while Black people accounted for 18 percent of County residents between FY18 and FY22 and 27 percent of MCPD traffic stops among Montgomery County drivers, they accounted for 41 percent of traffic stops among other jurisdiction drivers. Conversely, White people accounted for 43 percent of County residents, 36 percent of traffic stops among Montgomery County drivers, and 32 percent of traffic stops among other jurisdiction drivers.

Multiple studies suggest disproportionately targeting BIPOC drivers in police stops is ineffective in uncovering illegal activity or reducing crime.¹⁸ Nonetheless, as described in *Pulled Over*, investigatory stops can have harmful effects on BIPOC communities in terms of relations with police and general sense of equality in society.¹⁹ Further, a 2020 study published in the *Journal of Ethnic and Health Disparities* describes how police profiling impacts the health of Black Americans, identifying violent confrontations with police that cause injury or death among the potential harms.²⁰

The authors of *Pulled Over* contend that addressing racial disparities in police stops must go deeper than training officers to be polite and respectful when conducting stops, offering the following three recommendations:²¹

- Changing professional norms within police departments to avoid car and pedestrian stops except when there is clear evidence of unsafe driving or criminal activity.
- Prohibiting pretextual stops except when justified by overriding public safety need. This would be supported by requiring officers to record their reason for each stop and allowing officers to conduct a criminal records search on a driver only after the legal basis for a stop is reported and recorded.

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- Prohibiting consent searches unless there is probable cause to believe a crime has been committed. Searches should be conducted only with supervisor authorization and evidence justifying searches should be recorded and evaluated by supervisors.

Along with other jurisdictions, the County has also explored addressing racial disparities in police stops through reassigning traffic law-enforcement, including automated traffic enforcement, to a non-police agency.^{22,23}

ANTICIPATED RESJ IMPACTS

To consider the anticipated impact of Bill 12-23 on RESJ in the County, OLO considered two related questions:

- Who are the primary beneficiaries of this bill?
- What racial and social inequities could passage of this bill weaken or strengthen?

For the first question, OLO considered the likely demographics of drivers who could no longer be stopped by MCPD for traffic offenses specified in the Bill, as well as of drivers who could no longer be subjected to consent searches. Table 1 demonstrates that Black and Latinx drivers were overrepresented among citations for the specified traffic offenses, while White and Asian drivers were underrepresented. Of note, Table 1 summarizes demographics of all citations received under Title 22, however Bill 12-23 would not prohibit stops for all traffic offenses under this Title.

Table 1: Traffic Citations by Driver Race or Ethnicity and Maryland State Code Transportation Article Title, FY18-22

Title	Total	Asian	Black	Latinx ²⁴	Native American	White	Other
Adult Population	819,119	16%	18%	19%	<1%	43%	4%
Title 13: Cert. of Title and Reg. of Vehicles	34,554	4%	42%	21%	<1%	27%	5%
Title 16: Drivers' Licenses	58,621	2%	41%	33%	<1%	19%	4%
Title 17: Required Security	5,699	2%	51%	24%	<1%	18%	4%
Title 22: Equipment of Vehicles	9,914	3%	32%	36%	<1%	23%	6%

Source: Adapted from OLO Memorandum Report 2022-12.

Table 2 demonstrates that from FY 2018 to FY 2022 Black and Latinx drivers were also overrepresented among consent searches, while White and Asian drivers were underrepresented.

Table 2: Consent Searches by Driver Race or Ethnicity, FY18-FY22

Driver Race or Ethnicity	Adult Population	Consent Searches
Total	819,119	3,072
Asian	16%	2%
Black	18%	51%
Latinx	19%	22%
Native American	<1%	<1%
White	43%	23%
Other	4%	2%

Source: OLO Analysis of Traffic Violations Dataset, dataMontgomery.

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For the second question, OLO considered how the Bill could address racial inequities in police stops. As previously discussed, racial inequities in police stops are particularly harmful for BIPOC communities in terms of health, relations with police, and general sense of equality in society. Through limiting police stops for certain traffic offenses and consent searches, Bill 12-23 is aligned with general recommendations for reducing racial disparities in police stops. Requiring data collection on the initial reason justifying each stop also supports the specific recommendation for limiting pretextual stops.

OLO Memorandum Report 2022-12 calculated disparity scores for the six titles of the Maryland Vehicle Law that generated the most citations between FY18 and FY22. The disparity score measures the degree of racial disparities for citations issued within each title, with a higher score indicating larger racial disparities and a lower score indicating smaller racial disparities.²⁵ Table 3 below orders the titles by their disparity scores from largest to smallest. Bill 12-23 would limit police stops for all offenses under the titles with the first, second, and fourth largest disparity scores, and limit police stops for certain offenses under the title with the third largest disparity score.

Table 3: Top Six Titles of Maryland Vehicle Law Generating the Most Citations by Racial Disparity Score, FY18-FY22

Title	Disparity Score
Title 17: Required Security	77 points
Title 16: Drivers' Licenses	76 points
Title 22: Equipment of Vehicles	66 points
Title 13: Cert. of Title and Reg. of Vehicles	56 points
Title 20: Accidents and Accident Reports	55 points
Title 21: Rules of the Road	44 points

Source: Adapted from OLO Memorandum Report 2022-12.

Taken together, OLO anticipates Bill 12-23 will have a positive impact on RESJ in the County. Bill 12-23 would disproportionately benefit Black and Latinx drivers through limiting police stops for traffic offenses that currently have among the largest racial disparities. Black and Latinx drivers would also disproportionately benefit from limitations on consent searches. Bill 12-23 aligns with recommendations for reducing racial disparities in police stops, which could improve health, relations with police, and general sense of equality in the community for BIPOC constituents. Given the potential social benefits, OLO anticipates the positive RESJ impact will be moderate to large. Overall, OLO evaluates Bill 12-23 to be an equitable policy through its prioritization of RESJ.

RECOMMENDED AMENDMENTS

The Racial Equity and Social Justice Act requires OLO to consider whether recommended amendments to bills aimed at narrowing racial and social inequities are warranted in developing RESJ impact statements.²⁶ OLO anticipates Bill 12-23 will have a positive impact on RESJ in the County. As such, OLO does not offer recommended amendments.

CAVEATS

Two caveats to this racial equity and social justice impact statement should be noted. First, predicting the impact of legislation on racial equity and social justice is a challenging analytical endeavor due to data limitations, uncertainty, and other factors. Second, this RESJ impact statement is intended to inform the legislative process rather than determine whether the Council should enact legislation. Thus, any conclusion made in this statement does not represent OLO's endorsement of, or objection to, the bill under consideration.

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CONTRIBUTIONS

OLO staffer Janmarie Peña, Performance Management and Data Analyst, drafted this RESJ impact statement.

APPENDIX

Select Tables from OLO Memorandum Report 2022-12

Montgomery County Police Department Traffic Stops by Driver Race or Ethnicity, FY18-22

Race/Ethnicity and Gender	FY18	FY19	FY20	FY21	FY22	5-Year Change	5-Year Total	Adult Population*
Total	117,585	116,668	72,246	29,333	40,207	-77,378	376,039	819,119
Asian	7%	7%	6%	5%	5%	-1 pt	6%	16%
Female	3%	3%	2%	2%	2%	-1 pt	3%	8%
Male	4%	4%	4%	3%	3%	-1 pt	4%	8%
Black	31%	30%	31%	30%	30%	-1 pt	30%	18%
Female	11%	11%	11%	10%	11%	<1 pt	11%	9%
Male	20%	19%	20%	20%	19%	-1 pt	20%	9%
Latinx	20%	20%	20%	23%	22%	+2 pts	21%	19%
Female	6%	6%	6%	6%	6%	+1 pt	6%	9%
Male	14%	15%	14%	17%	16%	+2 pts	15%	9%
Native American	<1%	<1%	<1%	<1%	<1%	<1 pt	<1%	<1%
Female	<1%	<1%	<1%	<1%	<1%	<1 pt	<1%	<1%
Male	<1%	<1%	<1%	<1%	<1%	<1 pt	<1%	<1%
White	36%	36%	35%	32%	28%	-8 pts	35%	43%
Female	14%	15%	14%	12%	11%	-3 pts	14%	22%
Male	22%	22%	21%	20%	17%	-5 pts	21%	22%
Other	7%	7%	8%	9%	14%	+8 pts	8%	4%
Female	2%	2%	3%	3%	5%	+3 pts	3%	2%
Male	4%	4%	5%	6%	9%	+5 pts	5%	2%

Montgomery County Police Department Traffic Stops by Driver Residency, FY18-22

Race or Ethnicity	Montgomery County Residents		Other Jurisdictions
	Traffic Stops	Adult Population	Traffic Stops
Total	274,313	819,119	101,180
Asian	7%	16%	4%
Black	27%	18%	41%
Hispanic	22%	19%	16%
Native American	<1%	<1%	<1%
White	36%	43%	32%
Other	8%	4%	7%

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¹ Definition of racial equity and social justice adopted from “Applying a Racial Equity Lens into Federal Nutrition Programs” by Marlysa Gamblin, et.al. Bread for the World, and from Racial Equity Tools. <https://www.racialequitytools.org/glossary>

² Ibid

³ Introduction Staff Report for Bill 12-23, Montgomery County Council, Introduced February 28, 2023.

https://www.montgomerycountymd.gov/council/Resources/Files/agenda/col/2023/20230228/20230228_2B.pdf

⁴ Leslie Rubin and Blaise DeFazio, OLO Report 2021-10, Office of Legislative Oversight, July 27, 2021.

https://www.montgomerycountymd.gov/OLO/Resources/Files/2021_Reports/OLOReport21-10.pdf

⁵ Natalia Carrizosa, OLO Memorandum Report 2022-12, Office of Legislative Oversight, October 25, 2022.

https://www.montgomerycountymd.gov/OLO/Resources/Files/2022_reports/OLOReport2022-12.pdf

⁶ Introduction Staff Report for Bill 12-23

⁷ Under Bill 12-23, a biased stop is defined as a traffic stop in which a member inappropriately considers characteristics such as race, ethnicity, national origin, religion, sex, sexual orientation, gender identity or expression, socio-economic status, age, or disability, in deciding whether to initiate a stop.

⁸ Statewide Police Disciplinary Matrix, Maryland Police Training & Standards Commission, June 9, 2022.

https://mdle.net/pdf/Commission_Approved_Uniform_Disciplinary_Matrix.pdf

⁹ Carrizosa

¹⁰ David A. Harris, “Racial Profiling: Past, Present, and Future?” Criminal Justice Magazine, American Bar Association, January 21,

2020. https://www.americanbar.org/groups/criminal_justice/publications/criminal-justice-magazine/2020/winter/racial-profiling-past-present-and-future/

¹¹ “Racial Profiling: Definition,” American Civil Liberties Union. <https://www.aclu.org/other/racial-profiling-definition>

¹² Michael A. Robinson, “Black Bodies on the Ground: Policing Disparities in the African American Community—An Analysis of Newsprint From January 1, 2015, Through December 31, 2015,” Journal of Black Studies, April 7, 2017.

<https://journals.sagepub.com/doi/10.1177/0021934717702134>

¹³ Josh Keefe, “A Brief History of the Traffic Stop (Or How the Car Created the Police State),” Observer.com, July 26, 2016.

<https://observer.com/2016/07/a-brief-history-of-the-traffic-stop-or-how-the-car-created-the-police-state/>

¹⁴ Liz Mineo “Legal Historian Traces ‘Racism on the Road,’” The Harvard Gazette, November 22, 2021.

<https://news.harvard.edu/gazette/story/2021/11/historian-urges-end-to-police-traffic-law-enforcement/>

¹⁵ Charles R. Epp, Steven Maynard-Moody, Donald Haider-Markel, *Pulled Over: How Police Stops Define Race and Citizenship* (University of Chicago Press, 2014)

¹⁶ Rubin and DeFazio

¹⁷ Carrizosa

¹⁸ Karin D. Martin and Jack Glaser, “The Indefensible Problems with Racial Profiling,” Society and Culture: Debates on Immigration,

2012. https://gspp.berkeley.edu/assets/uploads/research/pdf/Martin_Glaser- Racial_Profiling-Debates_Immigration_2012.pdf

¹⁹ Epp, Maynard-Moody, and Haider-Markel

²⁰ Cato T. Laurencin and Joanne M. Walker, “Racial Profiling is a Public Health and Health Disparities Issue,” Journal of Racial and

Ethnic Health Disparities, 2020. <https://www.ncbi.nlm.nih.gov/pmc/articles/PMC7231642/>

²¹ Epp, Maynard-Moody, and Haider-Markel

²² Rubin and DeFazio

²³ Rebecca Tan, “Should Police be in Charge of Traffic Enforcement? In a Suburb Beset by Racial Inequities, Lawmakers Aren’t Sure.”

The Washington Post, August 10, 2020. https://www.washingtonpost.com/local/md-politics/montgomery-police-bias-traffic-2020/08/07/818fd860-d72e-11ea-aff6-220dd3a14741_story.html

²⁴ Throughout this RESJIS, Latinx people are not included in other racial groups.

²⁵ Refer to Page 13 in OLO Memorandum Report 2022-12 for disparity score calculation.

²⁶ Bill 27-19, Administration – Human Rights – Office of Racial Equity and Social Justice – Racial Equity and Social Justice Advisory Committee – Established, Montgomery County Council