

## Bill sponsored by Provo lawmaker would require prosecutors to track data on race, gender

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Daily Herald

February 10, 2020

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A new bill aims to increase transparency in Utah's criminal justice system by mandating that prosecutors keep track of who is being arrested and tried in the state.

The bill, which was introduced last Friday by Rep. Marsha Judkins, R-Provo, would require county prosecutors, jails and courts in Utah to keep data on the race, ethnicity and gender, among other data points, of those booked into jail facilities. This data would then be reported to the Utah Commission on Criminal and Juvenile Justice twice a year.



House Bill 288 would also require all prosecutorial agencies in the state to publish certain office policies beginning Jan. 1, 2021.

The policies that "shall be published online and made available in printed form on request" include those on screening and filing criminal charges, plea bargains, sentencing recommendations, discovery practices, diversion programs, restorative justice programs and when to prosecute a juvenile as an adult.

Any prosecutor office that fails to make these policies public "may not receive grants or other funding intended to assist with bringing the agency into compliance," according to the bill's text.

Judkins said in an interview that, about a year ago, she was looking into putting together a committee or task force to look at "convictions and the integrity in the prosecutor's office(s)" throughout Utah.

"And as I was looking at that, I realized I couldn't find any data about what was happening in the prosecutor's offices," said Judkins. "There's just not a readily accessible way to gather data."

Tracking data on race, ethnicity and gender will help identify any "unconscious bias" in the criminal justice system, the Provo representative said.

"If we have it, we need to confront it and see what to do about it," Judkins said. "I'm not saying that's happening, but we do have a disproportionate number of people of color in our jails and prisons."

The American Civil Liberties Union of Utah supports H.B. 288, according to Jason Groth, coordinator of the group's Smart Justice Utah program.

Groth said the bill will help policymakers and prosecutors “address some issues we know have been lingering,” including racial disparities in the criminal justice system.

“We’ve really had trouble pinning down the drivers of those disparities,” said Groth, “and this bill will give us that opportunity to find the drivers of racial disparities, if they exist in the prosecutor offices, and address those accordingly.”

The data would also give prosecutors a better understanding of which programs, whether diversion programs for criminals or service programs for victims, are successful and which aren’t, Groth added.

“This bill allows us to look at data comprehensively that has been siloed in different agencies,” he said.

Utah County Attorney David Leavitt said he supports requiring prosecutor offices to track data on race, ethnicity and gender, adding that the Utah County Attorney’s Office has historically not tracked this information.

Leavitt said he is implementing policy changes later this year and, among them, is requiring his office to track such demographic data.

“It’s important that we look at racial bias, it’s important that we look at gender bias (and) it’s important to be able to understand when we file charges and when we don’t,” Leavitt said.

But Leavitt said there are aspects of the bill that he doesn’t see as necessary, including requiring prosecutor offices to give the Utah Commission on Criminal and Juvenile Justice data on offender tracking numbers, initial appearance dates and dates of initial discovery disclosure. Leavitt said this data is “not necessarily helpful” for identifying bias in the criminal justice system or holding prosecutors accountable.

The purpose of the bill is not to say that prosecutors in Utah are bad actors, Judkins said, adding that “we have really good, good prosecutors in our state.”

“This just makes the process more transparent, which is always a good idea when we’re talking about government,” said Judkins.

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