

Stricken language would be deleted from and underlined language would be added to the law as it existed prior to this session of the General Assembly.

Act 2136 of the Regular Session

1 State of Arkansas
2 85th General Assembly
3 Regular Session, 2005
4

As Engrossed: S4/5/05 S4/11/05

A Bill

SENATE BILL 603

5 By: Senator Wilkins
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7

For An Act To Be Entitled

9 AN ACT TO IMPLEMENT THE RECOMMENDATIONS OF THE
10 ARKANSAS TASK FORCE ON RACIAL PROFILING; AND FOR
11 OTHER PURPOSES.
12

Subtitle

13 AN ACT TO IMPLEMENT THE RECOMMENDATIONS
14 OF THE ARKANSAS TASK FORCE ON RACIAL
15 PROFILING.
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19 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF ARKANSAS:
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21 *SECTION 1. Arkansas Code § 6-11-105(a), pertaining to the powers and*
22 *duties of the State Board of Education, is amended to read as follows:*

23 *(a) The State Board of Education shall:*

- 24 *(1) Have general supervision of the public schools of the state;*
25 *(2) Prepare and distribute plans and specifications for the*
26 *construction and equipment of school buildings and approve plans and*
27 *expenditures of public school funds for all new school buildings;*
28 *(3) Recommend courses of study for the public schools and*
29 *teacher training institutions;*
30 *(4) Prescribe rules and regulations for the sanitary inspection*
31 *of all buildings and for the examination of pupils to detect contagious and*
32 *infectious diseases and physical defects;*
33 *(5) Issue certificates based upon credentials presented by*
34 *applicants for certificates to teach in the public schools of the state;*
35 *(6) Qualify and standardize public schools and prescribe*



1 requirements for accrediting and grading public schools;

2 (7) Supervise the operation of school district budgets;

3 (8) Supervise the purchase and distribution of textbooks;

4 (9) Take such other action as it may deem necessary to promote
5 the physical welfare of school children and promote the organization and
6 increase the efficiency of the public schools of the state;

7 (10) Perform all other functions which may now or hereafter be
8 delegated to the board by law. However, nothing in this act shall prohibit
9 the board and the Department of Education from issuing teachers' certificates
10 upon the results of teachers' examinations as now provided by law; ~~and~~

11 (11)(A) Eliminate unnecessary reports and paperwork by yearly
12 identifying and compiling a list of all reports that are required from local
13 school districts by the department or the board for the school year; and

14 (B) Adopt policies to ensure, except as allowed under
15 subsection (b), that local school districts are not required by the board or
16 the department to:

17 (i) Provide information that is already available on
18 a department student information management system or housed within the
19 department;

20 (ii) Provide the same written information more than
21 once during a school year unless the information has changed during the
22 school year; or

23 (iii) Complete forms for children with disabilities
24 that are not necessary to ensure compliance with federal statutes and
25 regulations, including, but not limited to, the Individuals with Disabilities
26 Education Act, state mandates, and corresponding appropriations governing the
27 provision of special education services to students with disabilities; ~~and~~

28 (12) Take such other action as it deems necessary to promote
29 public education and awareness about racial profiling.

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31 SECTION 2. Arkansas Code § 12-8-104, pertaining to the duties of the
32 Director of the Department of Arkansas State Police, is amended to add an
33 additional subsection to read as follows:

34 (j) The Director of the Department of Arkansas State Police may
35 implement a public service campaign concerning racial profiling and the
36 director may utilize brochures, flyers, or public service announcements.

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SECTION 3. Arkansas Code § 12-12-1402 is amended to read as follows:
12-12-1402. Prohibition on racial profiling.

(a) No member of the Department of Arkansas State Police, the Arkansas Highway Police Division of the Arkansas State Highway and Transportation Department, a sheriff's department, or a municipal police department, constable, or any other law enforcement officer of this state shall engage in racial profiling.

(b) ~~The detention of an individual based on any noncriminal factor or combination of noncriminal factors is inconsistent with this policy~~ The statements of policy and definitions contained in this subchapter shall not be construed or interpreted to be contrary to the Arkansas Rules of Criminal Procedure or the constitutions of the United States or the State of Arkansas.

SECTION 4. Arkansas Code § 12-12-1403 is amended to read as follows:
12-12-1403. Policies.

(a) Not later than January 1, 2004, the Department of Arkansas State Police, the Arkansas Highway Police Division of the Arkansas State Highway and Transportation Department, all sheriffs' departments, municipal police departments, constables, and all other law enforcement agencies of this state shall adopt a written policy that:

(1) Prohibits racial profiling as defined in § 12-12-1401;

(2) Requires that law enforcement officers have reasonable suspicion prior to a stop, arrest, or detention;

(3) Defines reasonable suspicion, to ensure that individuals are stopped for valid reasons and that race, ethnicity, national origin, or religion is not the basis for stops for violations for which nongroup members would not be stopped;

(4) Requires law enforcement officers to identify themselves by full name and jurisdiction and state the reason for the stop and when possible present written identification;

(5) Provides for a systematic review process by supervising personnel within a department or law enforcement agency for investigating allegations of racial profiling to determine whether any officers of the law enforcement agency have a pattern of stopping or searching persons, and if the review reveals a pattern, requires an investigation to determine whether

1 a trend is present indicating that an officer may be using race, ethnicity,
2 national origin, or religion as a basis for investigating other violations of
3 criminal law;

4 (6) When a supervisor or other reviewer has detected a pattern
5 of racial profiling, provides timely assistance, remediation, or discipline
6 for individual law enforcement officers who have been found to be profiling
7 by race, ethnicity, national origin, or religion;

8 (7) Ensures that supervisors will not retaliate against officers
9 who report racial profiling by others; and

10 (8) Provides standards for the use of in-car audio and visual
11 equipment, including the duration for which the recordings are preserved.

12 (b) Each law enforcement agency shall include a copy of the agency's
13 policy in the annual report that the agency submits to the Division of
14 Legislative Audit.

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16 SECTION 5. Arkansas Code § 12-12-1404 is amended to read as follows:
17 12-12-1404. Training.

18 (a) Each law enforcement agency shall provide annual training to all
19 officers that:

20 (1) Emphasizes the prohibition against racial profiling;

21 (2) Ensures that operating procedures adequately implement the
22 prohibition against racial profiling and that the agency's law enforcement
23 personnel have copies of, understand, and follow the operating procedures;
24 and

25 (3) Includes foreign language instruction, if possible, to
26 ensure adequate communication with residents of a community.

27 (b) The course or courses of instruction and the guidelines shall
28 stress understanding and respect for racial, ethnic, national, religious, and
29 cultural differences and development of effective and appropriate methods of
30 carrying out law enforcement duties.

31 (c)(1)(A) The Law Enforcement Standard and Training Commission shall
32 adopt an initial training module concerning diversity and racial sensitivity
33 for recruits and officers.

34 (B) The commission shall also adopt a training module for
35 biennial recertification for all recruits and officers who have completed the
36 initial training module.

1 (2) Officers currently employed by any law enforcement agency
2 shall be required to complete the initial training described in subdivision
3 (c)(1)(A) of this section before June 30, 2006.

4 (d)(1) By January 1, 2006, the Law Enforcement Standard and Training
5 Commission shall promulgate rules that will set significant standards for all
6 training required in this section.

7 (2) The commission is authorized to make additions, amendments,
8 changes, or alterations to the rules in accordance with the Arkansas
9 Administrative Procedure Act, § 25-15-201 et seq.

10 (3) The commission may review and recommend changes to the
11 racial profiling policy of any law enforcement agency.

12 (4) Upon request, the racial profiling policy of any law
13 enforcement agency shall be made available to the commission for the purpose
14 described in subdivision (d)(3) of this section.

15 (5) The commission may establish a toll-free hotline and an e-
16 mail address to receive complaints concerning racial profiling.

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18 SECTION 6. Task Force on Racial Profiling established.

19 (a)(1) The task force created by Acts 2003, No. 1207, expired on
20 December 31, 2004. Since additional work by a task force is needed, there is
21 created a task force, consisting of thirteen (13) members, to be known as the
22 "Task Force on Racial Profiling".

23 (2) The Governor shall appoint the members as follows:

24 (A) Four (4) members shall be active or retired law
25 enforcement officers or prosecuting attorneys;

26 (B) Three (3) members shall be associated with civil
27 rights or community organizations;

28 (C) Two (2) members shall be lawyers practicing
29 substantially in the field of criminal defense; and

30 (D) Four (4) members shall be citizen representatives.

31 (b)(1) Within thirty (30) days after all members are appointed, the
32 members shall meet to organize at a time and place determined by the
33 Governor.

34 (2) The task force shall select a member to serve as chair each
35 year.

36 (3) The task force shall meet as necessary to carry out its

1 duties under this act and at the call of the chair.

2 (c) There shall be no compensation for the members of the task force,
3 though each member may receive expense reimbursement in accordance with
4 Arkansas Code § 25-16-902 to the extent funds are available.

5 (d) General staff support, facilities, and operating assistance for
6 the task force may be provided by the Governor's office.

7 (e) The task force shall:

8 (1) Monitor implementation and compliance with § 12-12-1401 et
9 seq. and reforms enacted by the Eighty-fifth General Assembly;

10 (2) Serve in an advisory capacity to the Director of the
11 Department of Arkansas State Police and the State Board of Education
12 regarding the public education and awareness campaigns on racial profiling;

13 (3) Study the effectiveness and feasibility of a racial
14 profiling data collection requirement in the State of Arkansas;

15 (4) Work with law enforcement agencies and civil rights
16 advocates to determine an effective and appropriate penalty for violating the
17 prohibition on racial profiling;

18 (5) Compile an annual report of all complaints and
19 investigations regarding racial profiling and provide the report to the
20 Governor, Legislative Council, and Arkansas Legislative Black Caucus of the
21 General Assembly;

22 (6) Report its findings and recommendations to the Governor and
23 Legislative Council before December 31, 2006; and

24 (7) Facilitate an annual symposium on racial profiling for the
25 Governor's Office, Arkansas Legislative Black Caucus of the General Assembly,
26 Department of Arkansas State Police and other interested persons to:

27 (A) Serve as a forum for dialogue to promote awareness and
28 understanding of racial profiling between the public, law enforcement
29 agencies, and other government agencies;

30 (B) Disseminate information and materials about the best
31 practices toward combating misinformation and prejudice;

32 (C) Provide assistance to community leaders and law
33 enforcement agencies in the fight against racial profiling; and

34 (D) Advocate and promote a state policy agenda that
35 establishes the best practices for addressing racial profiling.

36 (f) The task force shall expire on December 31, 2006.

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/s/ Wilkins

APPROVED: 4/13/2005

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