

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.

1 State of Arkansas
2 84th General Assembly
3 Regular Session, 2003
4

As Engrossed: S2/24/03

A Bill

SENATE BILL 96

5 By: Senator Wilkins
6
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For An Act To Be Entitled

9 AN ACT TO PROHIBIT RACIAL PROFILING BY LAW
10 ENFORCEMENT OFFICERS; AND FOR OTHER PURPOSES.
11

Subtitle

12 AN ACT TO PROHIBIT RACIAL PROFILING BY
13 LAW ENFORCEMENT OFFICERS.
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17 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF ARKANSAS:
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19 *SECTION 1. Definition.*

20 (a) "Committee" means the Profiling Advisory Committee created by this
21 act;

22 (b) "Criminal Justice Department" means the Criminal Justice
23 Department at the University of Arkansas at Pine Bluff; and

24 (c) "Racial profiling" means the practice of a law enforcement officer
25 relying, to any degree, on race, ethnicity, national origin, or religion in
26 selecting which individuals to subject to routine investigatory activities,
27 or in deciding upon the scope and substance of law enforcement activity
28 following the initial routine investigatory activity, except that racial
29 profiling does not include reliance on the criteria in combination with other
30 identifying factors when the law enforcement officer is seeking to apprehend
31 a specific suspect whose race, ethnicity, or national origin is part of the
32 description of the suspect, and the description is thought to be reliable and
33 locally relevant.
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35 *SECTION 2. Prohibition on racial profiling.*

36 (a) No member of the Arkansas State Police, Arkansas Highway Police, a



1 sheriff's department, a municipal police department, constable, or any other
2 law enforcement officer of this state shall engage in racial profiling.

3 (b) The detention of an individual based on any noncriminal factor or
4 combination of noncriminal factors is inconsistent with this policy.

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6 SECTION 3. Policies.

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

11 (1) Prohibits racial profiling as defined in section 1 of this
12 act;

13 (2) Requires that law enforcement officers articulate reasonable
14 suspicion prior to a stop, frisk, arrest, or detention;

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

19 (4) Requires law enforcement officers to identify themselves by
20 full name and jurisdiction, and proffer written identification;

21 (5) Provides for a regular review by the law enforcement agency
22 of the annual report of the Profiling Advisory Committee required by this
23 act;

24 (6)(A) Provides for a systematic review process for
25 investigating allegations of racial profiling to determine whether any
26 officers of the law enforcement agency have a pattern of stopping or
27 searching members of minority groups; and

28 (B) If the review reveals a pattern, requires an
29 investigation to determine whether any officers of the law enforcement agency
30 routinely stop persons on the basis of race, ethnicity, national origin, or
31 religion as a pretext for investigating other violations of criminal law;

32 (7) Provides, where a supervisor or other reviewer has detected
33 a pattern of racial profiling, timely assistance, remediation, or discipline
34 for individual law enforcement officers who have been found to be profiling
35 by race, ethnicity, national origin, or religion;

36 (8) Ensures that supervisors will not retaliate against officers

1 who report racial profiling by others;

2 (9) Provides for the creation, maintenance, and disposition of
3 documents evidencing a traffic or pedestrian stop; and

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

6
7 SECTION 4. Training.

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

10 (1) Emphasizes the prohibition against racial profiling;

11 (2) Ensures that operating procedures adequately implement the
12 prohibition against profiling and that their law enforcement personnel have
13 copies of, understand, and follow the operating procedures; and

14 (3) Includes foreign language instruction when appropriate, to
15 ensure adequate communication with residents of a community.

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

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21 SECTION 5. Data.

22 (a) Commencing January 1, 2004, the Arkansas State Police, Arkansas
23 Highway Police, each sheriff's department, municipal police department,
24 constable, and any other law enforcement agency of this state shall collect
25 from each police officer who stops a driver of a motor vehicle or a
26 pedestrian the following information:

27 (1) The date, time, and location of the stop;

28 (2) The age, gender, race, and ethnicity of the individual
29 stopped;

30 (3) The reason for the stop and duration of the stop;

31 (4) If a vehicle is stopped, the license plate number, state,
32 and description of the vehicle, including make, model, and color;

33 (5) Whether a search was conducted as a result of the stop;

34 (6) The basis for a search, if one was conducted;

35 (7) If the individual consented to the search;

36 (8) Whether any person or persons were searched;

1 (9) Whether any person's property was searched, and the scope of
2 the search;

3 (10) Whether any contraband or other property was discovered in
4 the course of the search, the type of any contraband discovered, and whether
5 any contraband or other property was seized;

6 (11) Whether any warning or citation was issued as a result of
7 the stop;

8 (12) If a warning or citation was issued, the violation charged
9 or warning provided;

10 (13) Whether an arrest was made as a result of either the stop
11 or the search;

12 (14) If an arrest was made, the offense or offenses charged; and

13 (15) The identification of the officer and the officer's name
14 and badge number.

15 (b) The information required under subsection (a) of this section may
16 be reported using a form developed and promulgated by the Profiling Advisory
17 Committee in consultation with the Criminal Justice Department.

18 (c) In addition, each law enforcement agency shall preserve the
19 information required under subsection (a) of this section for five (5) years
20 and shall turn over to the committee upon request the following:

21 (1) All of the data referred to in this section;

22 (2) Any complaints filed by persons asserting that they were
23 stopped, detained, searched, arrested, or charged on the basis of racial
24 profiling; and

25 (3) Any other information the law enforcement agency, or the
26 Profiling Advisory Committee deems appropriate.

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28 SECTION 6. Audits.

29 The Profiling Advisory Committee may conduct an audit of the data
30 required under this act and in support of that power may seek further
31 information from the law enforcement agency of any other state, county or
32 municipal agency, and if necessary file suit to obtain this information from
33 any agency failing to comply with the request.

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35 SECTION 7. Report.

36 (a) On or before January 1, 2005, and annually thereafter, the

1 Criminal Justice Department shall provide a report to the Profiling Advisory
2 Committee of the information recorded in the form prescribed under this act.

3 (b) The committee shall determine the format that the Criminal Justice
4 Department shall use to submit the report.

5 (c) The committee, with the assistance of the Criminal Justice
6 Department, shall analyze the annual reports required by this section and
7 submit a report of the findings to the Governor, the members of the General
8 Assembly, and each law enforcement agency no later than the first of August
9 of each year.

10 (d) The report of the committee shall include at least the following
11 information for each agency:

12 (1) The total number of vehicles stopped by officers during the
13 previous calendar year;

14 (2) The number and percentage of stopped motor vehicles that
15 were driven by members of each racial or ethnic group;

16 (3) A comparison of the percentage of stopped motor vehicles
17 driven by each racial or ethnic group and the percentage of the state's
18 population, driving age population, and owners of motor vehicles that each
19 racial or ethnic group comprises; and

20 (4) A compilation of the information reported by law enforcement
21 agencies under this section.

22 (e)(1) The report authorized under this section shall include a
23 multivariate analysis of the collected data in accordance with general
24 statistical standards.

25 (2) The report, findings, and conclusions submitted under this
26 subsection shall be a public record.

27 (f)(1) After the effective date of this act, the committee, shall
28 obtain the services of an organization, company, person, or other entity with
29 sufficient expertise in the field of statistics to assist with the
30 implementation of this act.

31 (2) The organization, company, person, or other entity so
32 retained shall assist the committee with the design of the methodology for
33 gathering statistics, monitoring compliance, and conducting a statistical
34 analysis at the conclusion of each year to determine the extent to which
35 racial profiling exists within the state.

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1 SECTION 8. Advisory Committee Established.

2 (a)(1) There is established an advisory committee, consisting of nine
3 (9) members, to be called the "Profiling Advisory Committee".

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

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

7 (B) Two (2) members shall be associated with civil rights
8 or community organizations;

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

11 (D) One (1) member shall be a citizen representative.

12 (b)(1)(A) Members shall serve three-year terms or until a successor is
13 appointed.

14 (B)(i) Within thirty (30) days after all members are
15 appointed, the members shall meet to organize at a time and place determined
16 by the Governor and determine by lot their respective staggered terms so that
17 the terms of three (3) members expire in one (1), two (2), and three (3)
18 years respectively.

19 (ii) Upon the expiration of the original terms, all
20 successor members shall serve three-year terms.

21 (2) The advisory committee shall select a member to serve as
22 chairperson each year.

23 (3) The advisory committee shall meet as necessary to carry out
24 its duties under this act and at the call of the chair.

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

28 (d) The committee shall be advised by the statistician responsible for
29 the data collection and design of the study.

30 (e) General staff support, facilities, and operating assistance for
31 the committee may be provided by the University of Arkansas at Pine Bluff.

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33 SECTION 9. Complaints.

34 (a) The Profiling Advisory Committee shall establish independent
35 procedures for receiving, investigating, and responding to complaints
36 alleging racial profiling by law enforcement officers or agencies.

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