

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 85th General Assembly
3 Regular Session, 2005

As Engrossed: S4/5/05
A Bill

SENATE BILL 603

4
5 By: Senator Wilkins
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8 **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

13 **Subtitle**

14 AN ACT TO IMPLEMENT THE RECOMMENDATIONS
15 OF THE ARKANSAS TASK FORCE ON RACIAL
16 PROFILING.
17

18
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*
36 *requirements for accrediting and grading public schools;*



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

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

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

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

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

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

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

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

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

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

29

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

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

36

1 SECTION 3. Arkansas Code § 12-12-1402 is amended to read as follows:
2 12-12-1402. Prohibition on racial profiling.

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

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

13
14 SECTION 4. Arkansas Code § 12-12-1403 is amended to read as follows:
15 12-12-1403. Policies.

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

21 ~~(1)~~(A) Prohibits racial profiling as defined in § 12-12-
22 1401;

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

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

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

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

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

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

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

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

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

16 (b)(1) The Office of the Attorney General may review and recommend
17 changes to the racial profiling policy of any law enforcement agency.

18 (2) Upon request, the racial profiling policy of any law
19 enforcement agency shall be made available to the Attorney General for the
20 purposes set forth in subdivision (b)(1) of this section.

21 (3) The Office of the Attorney General may establish a toll-free
22 hotline and an email address to receive complaints regarding racial
23 profiling.

24
25 SECTION 5. Arkansas Code § 12-12-1404 is amended to read as follows:
26 12-12-1404. Training.

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

29 (1) Emphasizes the prohibition against racial profiling;

30 (2) Ensures that operating procedures adequately implement the
31 prohibition against racial profiling and that the agency's law enforcement
32 personnel have copies of, understand, and follow the operating procedures;
33 and

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

36 (b) The course or courses of instruction and the guidelines shall

1 stress understanding and respect for racial, ethnic, national, religious, and
2 cultural differences and development of effective and appropriate methods of
3 carrying out law enforcement duties.

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

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

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

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

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

19
20 SECTION 6. Task Force on Racial Profiling established.

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

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

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

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

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

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

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

36 (2) The task force shall select a member to serve as chair each

1 year.

2 (3) The task force shall meet as necessary to carry out its
3 duties under this act and at the call of the chair.

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

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

9 (e) The task force shall:

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

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

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

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

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

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

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

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

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

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

36 (D) Advocate and promote a state policy agenda that

1 establishes the best practices for addressing racial profiling.

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

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/s/ Wilkins

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