

1 SB21
2 196686-1
3 By Senator Smitherman
4 RFD: Judiciary
5 First Read: 05-MAR-19
6 PFD: 01/30/2019

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8 SYNOPSIS: Existing law does not require the keeping of
9 statistics to determine if traffic stops are being
10 made by state and local law enforcement officers
11 solely on the basis of the racial or ethnic status
12 of persons.

13 This bill would define racial profiling and
14 would prohibit a law enforcement officer from
15 engaging in racial profiling.

16 This bill would require county and municipal
17 police departments and the Alabama State Law
18 Enforcement Agency to adopt written policies to
19 prohibit racial profiling; would require the
20 adoption of the forms to be used for statistics of
21 traffic stops; would provide for complaints; would
22 require reports to be filed in the Office of the
23 Attorney General; and would provide for the
24 reporting and collection of data on injuries to
25 state and local law enforcement officers.

26 Amendment 621 of the Constitution of Alabama
27 of 1901, now appearing as Section 111.05 of the

1 Official ReCompilation of the Constitution of
2 Alabama of 1901, as amended, prohibits a general
3 law whose purpose or effect would be to require a
4 new or increased expenditure of local funds from
5 becoming effective with regard to a local
6 governmental entity without enactment by a 2/3 vote
7 unless: it comes within one of a number of
8 specified exceptions; it is approved by the
9 affected entity; or the Legislature appropriates
10 funds, or provides a local source of revenue, to
11 the entity for the purpose.

12 The purpose or effect of this bill would be
13 to require a new or increased expenditure of local
14 funds within the meaning of the amendment. If this
15 bill is not enacted by a 2/3 vote, it will not
16 become effective with regard to a local entity
17 unless approved by the local entity or until, and
18 only as long as, the Legislature appropriates funds
19 or provides for a local source of revenue.

20
21 A BILL

22 TO BE ENTITLED

23 AN ACT

24
25 Relating to traffic stops and state and local law
26 enforcement officers; to prohibit a law enforcement officer
27 from engaging in racial profiling; to require adoption of

1 written policies and the forms to be used for statistics on
2 traffic stops; to provide for complaints; to require reports
3 to be filed in the Office of the Attorney General; to provide
4 for the reporting and collection of data on injuries to state
5 and local law enforcement officers; and in connection
6 therewith to have as its purpose or effect the requirement of
7 a new or increased expenditure of local funds within the
8 meaning of Amendment 621 of the Constitution of Alabama of
9 1901, now appearing as Section 111.05 of the Official
10 Recompilation of the Constitution of Alabama of 1901, as
11 amended.

12 BE IT ENACTED BY THE LEGISLATURE OF ALABAMA:

13 Section 1. (a) For the purposes of this section,
14 "traffic stops based on racial profiling" shall mean the
15 detention, interdiction, or other disparate treatment of a
16 motorist solely on the basis of the racial or ethnic status of
17 the motorist.

18 (b) No member of the Alabama State Law Enforcement
19 Agency, a county or municipal police department, or any other
20 law enforcement agency shall engage in traffic stops based on
21 racial profiling. The detention of an individual based on any
22 noncriminal factor or combination of noncriminal factors shall
23 be inconsistent with this policy.

24 (c) The race or ethnicity of a motorist shall not be
25 the sole factor in determining the existence of probable cause
26 to place in custody, to make an arrest of the motorist, or in
27 constituting a reasonable and articulable suspicion that an

1 offense has been or is being committed to justify the
2 detention of the motorist or the investigatory stop of a motor
3 vehicle.

4 Section 2. (a) No later than January 1, following
5 the effective date of this act, each county and municipal
6 police department and the Alabama State Law Enforcement Agency
7 shall adopt a written policy that prohibits the stopping,
8 detention, or search of any motorist when the action is solely
9 motivated by considerations of race, color, ethnicity, age,
10 gender, or sexual orientation, and the action would constitute
11 a violation of the civil rights of the person.

12 (b) Commencing on January 1, following the effective
13 date of this act, each county and municipal police department
14 and the Alabama State Law Enforcement Agency, using the form
15 developed and adopted pursuant to Section 3, shall record and
16 retain all of the following information:

17 (1) The number of persons stopped for traffic
18 violations.

19 (2)a. Characteristics of race, color, ethnicity,
20 gender, and age of the persons, provided the identification of
21 the characteristics shall be based on the observation and
22 perception of the law enforcement officer responsible for
23 reporting the stop and the information shall not be required
24 to be provided by the person stopped.

25 b. In addition to paragraph a., when a law
26 enforcement officer provides the observed characteristics
27 listed in paragraph a. of the person stopped, the same

1 characteristics of the law enforcement officer shall be
2 provided in the same manner and adjacent to the information
3 regarding the person stopped.

4 (3) The nature of the alleged traffic violation that
5 resulted in the stop.

6 (4) Whether a warning or citation was issued, an
7 arrest made, or a search conducted as a result of the stop.

8 (c) Each county and municipal police department and
9 the Alabama State Law Enforcement Agency shall provide to the
10 Office of the Attorney General a copy of each complaint
11 received of a violation of this act, and written notification
12 of the review and disposition of the complaint.

13 (d) Demographic information collected in good faith
14 by a law enforcement officer pursuant to the requirements of
15 this section shall not serve as the basis of any civil action,
16 unless the collection is in violation of any law.

17 (e) If a county or municipal police department or
18 the Alabama State Law Enforcement Agency fails to comply with
19 this section, the Attorney General may recommend and may order
20 an appropriate penalty in the form of the withholding of funds
21 from the county or municipal police department or withholding
22 of funds from the Alabama State Law Enforcement Agency until
23 such time that the county or municipal police department or
24 the Alabama State Law Enforcement Agency completes appropriate
25 training regarding racial profiling.

26 (f) On or before October 1 of the second year
27 following the effective date of this act, and annually

1 thereafter, each county and municipal police department and
2 the Alabama State Law Enforcement Agency shall provide to the
3 Attorney General, in the form the Attorney General shall
4 prescribe, a summary report of the information recorded
5 pursuant to subsection (b).

6 (g) The Attorney General, within the limits of
7 existing appropriations, shall provide for a review of the
8 prevalence and disposition of traffic stops and complaints
9 reported pursuant to this act. No later than the fifth
10 legislative day of the Regular Session of the Legislature of
11 Alabama, commencing in the second year following the effective
12 date of this act, the Attorney General shall report to the
13 Governor and the Legislature of Alabama the results of the
14 review, including any recommendations.

15 Section 3. No later than January 1, following the
16 effective date of this act, the Attorney General, in
17 conjunction with the Secretary of the Alabama State Law
18 Enforcement Agency, the Administrative Office of Courts, and
19 the Peace Officers' Standards and Training Commission shall
20 develop and adopt both of the following:

21 (1) A form, in both printed and electronic format,
22 to be used by a law enforcement officer when making a traffic
23 stop to record personal identifying information about the
24 operator of the motor vehicle that is stopped and the personal
25 identifying information about the law enforcement officer, the
26 location of the stop, the reason for the stop, and other

1 information that is required to be recorded pursuant to
2 subsection (b) of Section 2.

3 (2) A form in both printed and electronic format, to
4 be used to report complaints pursuant to Section 2 by persons
5 who believe that they have been subjected to a motor vehicle
6 stop by a law enforcement officer solely on the basis of their
7 race, color, ethnicity, age, gender, or sexual orientation.

8 Section 4. (a) For the purposes of this section
9 "injury to a law enforcement officer" means any serious injury
10 in the line of duty to a law enforcement officer.

11 (b) Not later than January 1 following the effective
12 date of this act, each county law enforcement agency, each
13 municipal police department, and each state law enforcement
14 agency shall adopt a written policy and a form to collect
15 information on any serious injury to a law enforcement officer
16 under its jurisdiction in the line of duty. The form shall
17 include the official action that was in the line of duty, the
18 type of injury and extent of injury, whether the injury is
19 expected to result in a temporary or permanent disability, the
20 costs of treatment and medical care, whether an arrest or
21 citation was issued or prosecution commenced, and any other
22 information determined to be pertinent to the injury.

23 (c) The form provided for in subsection (b) shall be
24 filed with the Peace Officers' Standards and Training
25 Commission and the Alabama State Law Enforcement Agency and
26 compiled by the commission and agency to give the commission

1 and agency information on the nature and extent of injuries to
2 state and local law enforcement officers in the line of duty.

3 Section 5. Amendment 621 of the Constitution of
4 Alabama of 1901, now appearing as Section 111.05 of the
5 Official Recompilation of the Constitution of Alabama of 1901,
6 as amended, prohibits a general law whose purpose or effect
7 would be to require a new or increased expenditure of local
8 funds from becoming effective with regard to a local
9 governmental entity without enactment by a 2/3 vote unless: it
10 comes within one of a number of specified exceptions; it is
11 approved by the affected entity; or the Legislature
12 appropriates funds, or provides a local source of revenue, to
13 the entity for the purpose.

14 The purpose or effect of this bill would be to
15 require a new or increased expenditure of local funds within
16 the meaning of the amendment. If this bill is not enacted by a
17 2/3 vote, it will not become effective with regard to a local
18 entity unless approved by the local entity or until, and only
19 as long as, the Legislature appropriates funds or provides for
20 a local source of revenue.

21 Section 6. This act shall become effective on the
22 first day of the third month following its passage and
23 approval by the Governor, or its otherwise becoming law.