

SENATE BILL No. 85

DIGEST OF INTRODUCED BILL

Citations Affected: IC 4-6-2-13; IC 5-2.

Synopsis: Racial profiling and pretextual stops. Prohibits a law enforcement agency or a law enforcement officer from engaging in racial profiling or conducting pretextual stops. Requires a law enforcement agency to adopt a detailed policy that defines the elements of racial profiling and pretextual stops, and requires a law enforcement agency to collect certain data relating to stops made by law enforcement officers. Requires cultural diversity awareness training and training on unlawful racial profiling and pretextual stops for law enforcement officers. Specifies that a law enforcement agency shall transmit to the attorney general information concerning racial profiling complaints, investigations, and any action taken, as well as data collected relating to stops made by the law enforcement agency. Requires the attorney general to: (1) submit an annual report to the legislative council based on the information; (2) submit the data to a third party for statistical analysis; and (3) publish the results of the analysis on the attorney general's Internet web site. Establishes the racial profiling review commission to review complaints of unlawful racial profiling and unlawful pretextual stops. Permits a person to bring a civil action based on unlawful racial profiling and unlawful pretextual stops. Permits a law enforcement agency to use certain federal funds to purchase vehicle cameras and body cameras, and establishes training standards and standards for use. Makes a technical correction.

Effective: July 1, 2020.

Taylor G

January 6, 2020, read first time and referred to Committee on Corrections and Criminal Law.



Second Regular Session of the 121st General Assembly (2020)

PRINTING CODE. Amendments: Whenever an existing statute (or a section of the Indiana Constitution) is being amended, the text of the existing provision will appear in this style type, additions will appear in **this style type**, and deletions will appear in ~~this style type~~.

Additions: Whenever a new statutory provision is being enacted (or a new constitutional provision adopted), the text of the new provision will appear in **this style type**. Also, the word **NEW** will appear in that style type in the introductory clause of each SECTION that adds a new provision to the Indiana Code or the Indiana Constitution.

Conflict reconciliation: Text in a statute in *this style type* or ~~this style type~~ reconciles conflicts between statutes enacted by the 2019 Regular Session of the General Assembly.

SENATE BILL No. 85

A BILL FOR AN ACT to amend the Indiana Code concerning state and local administration.

Be it enacted by the General Assembly of the State of Indiana:

1 SECTION 1. IC 4-6-2-13 IS ADDED TO THE INDIANA CODE
2 AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JULY
3 1, 2020]: **Sec. 13. (a) Before November 1, 2021, and every year**
4 **thereafter, the attorney general shall submit a report to the**
5 **legislative council concerning racial profiling and pretextual stops.**
6 **The report must be based on information received from law**
7 **enforcement agencies under IC 5-2-24-8 and must include:**
8 (1) **the number of complaints filed alleging racial profiling**
9 **and pretextual stops;**
10 (2) **the results of the investigation into each complaint;**
11 (3) **if the complaint is substantiated, the action taken against**
12 **the offending law enforcement officer;**
13 (4) **a summary of the detailed statistical analysis of stops**
14 **conducted by law enforcement agencies based on the third**
15 **party analysis described in subsection (c); and**
16 (5) **any statistical or other information contained in or derived**
17 **from the information received from law enforcement agencies**



- 1 **that the attorney general believes would be useful to the**
 2 **legislative council.**
- 3 **The report submitted to the legislative council must be in an**
 4 **electronic format under IC 5-14-6. Not later than thirty (30) days**
 5 **after submitting the report to the legislative council, the attorney**
 6 **general shall publish a copy of the report on the attorney general's**
 7 **Internet web site.**
- 8 **(b) The attorney general and the director of the civil rights**
 9 **commission may recommend legislation based on the contents of**
 10 **the report.**
- 11 **(c) The attorney general shall provide compiled, anonymous**
 12 **data concerning law enforcement agency stops to a third party**
 13 **having expertise in statistical analysis. The third party shall**
 14 **analyze the data and provide the attorney general with a statistical**
 15 **analysis of the data. The attorney general shall provide updated**
 16 **data to the third party analyst at least quarterly and shall publish**
 17 **the results of the analysis on the attorney general's Internet web**
 18 **site. The attorney general shall update the analysis on the attorney**
 19 **general's Internet web site at least quarterly.**
- 20 **(d) Information transmitted to the legislative council or to the**
 21 **third party analyst or published on the attorney general's Internet**
 22 **web site may not include any personal identifying information.**
- 23 **(e) Information received by the attorney general from a law**
 24 **enforcement agency and not released to the public is confidential.**
- 25 SECTION 2. IC 5-2-1-9, AS AMENDED BY P.L.86-2018,
 26 SECTION 11, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
 27 JULY 1, 2020]: Sec. 9. (a) The board shall adopt in accordance with
 28 IC 4-22-2 all necessary rules to carry out the provisions of this chapter.
 29 The rules, which shall be adopted only after necessary and proper
 30 investigation and inquiry by the board, shall include the establishment
 31 of the following:
- 32 (1) Minimum standards of physical, educational, mental, and
 33 moral fitness which shall govern the acceptance of any person for
 34 training by any law enforcement training school or academy
 35 meeting or exceeding the minimum standards established
 36 pursuant to this chapter.
- 37 (2) Minimum standards for law enforcement training schools
 38 administered by towns, cities, counties, law enforcement training
 39 centers, agencies, or departments of the state.
- 40 (3) Minimum standards for courses of study, attendance
 41 requirements, equipment, and facilities for approved town, city,
 42 county, and state law enforcement officer, police reserve officer,



1 and conservation reserve officer training schools.

2 (4) Minimum standards for a course of study on cultural diversity
3 awareness, including training on the U nonimmigrant visa created
4 through the federal Victims of Trafficking and Violence
5 Protection Act of 2000 (P.L. 106-386) that must be required for
6 each person accepted for training at a law enforcement training
7 school or academy. **The cultural diversity awareness course of**
8 study must:

9 (A) include an understanding of cultural issues related to race,
10 religion, gender, age, domestic violence, national origin, and
11 physical and mental disabilities;

12 (B) include a study of unlawful racial profiling and
13 pretextual stops; and

14 (C) examine patterns, practices, and protocols that make
15 up unlawful racial profiling and pretextual stops.

16 **In establishing a program of study, the board shall consult**
17 **with persons having expertise and interest in the field of**
18 **cultural diversity awareness and the prevention of unlawful**
19 **racial profiling and pretextual stops.**

20 (5) Minimum qualifications for instructors at approved law
21 enforcement training schools.

22 (6) Minimum basic training requirements which law enforcement
23 officers appointed to probationary terms shall complete before
24 being eligible for continued or permanent employment.

25 (7) Minimum basic training requirements which law enforcement
26 officers appointed on other than a permanent basis shall complete
27 in order to be eligible for continued employment or permanent
28 appointment.

29 (8) Minimum basic training requirements which law enforcement
30 officers appointed on a permanent basis shall complete in order
31 to be eligible for continued employment.

32 (9) Minimum basic training requirements for each person
33 accepted for training at a law enforcement training school or
34 academy that include six (6) hours of training in interacting with:

35 (A) persons with autism, mental illness, addictive disorders,
36 intellectual disabilities, and developmental disabilities;

37 (B) missing endangered adults (as defined in IC 12-7-2-131.3);
38 and

39 (C) persons with Alzheimer's disease or related senile
40 dementia;

41 to be provided by persons approved by the secretary of family and
42 social services and the board. The training must include an



1 overview of the crisis intervention teams.

2 (10) Minimum standards for a course of study on human and
3 sexual trafficking that must be required for each person accepted
4 for training at a law enforcement training school or academy and
5 for inservice training programs for law enforcement officers. The
6 course must cover the following topics:

7 (A) Examination of the human and sexual trafficking laws
8 (IC 35-42-3.5).

9 (B) Identification of human and sexual trafficking.

10 (C) Communicating with traumatized persons.

11 (D) Therapeutically appropriate investigative techniques.

12 (E) Collaboration with federal law enforcement officials.

13 (F) Rights of and protections afforded to victims.

14 (G) Providing documentation that satisfies the Declaration of
15 Law Enforcement Officer for Victim of Trafficking in Persons
16 (Form I-914, Supplement B) requirements established under
17 federal law.

18 (H) The availability of community resources to assist human
19 and sexual trafficking victims.

20 (b) A law enforcement officer appointed after July 5, 1972, and
21 before July 1, 1993, may not enforce the laws or ordinances of the state
22 or any political subdivision unless the officer has, within one (1) year
23 from the date of appointment, successfully completed the minimum
24 basic training requirements established under this chapter by the board.
25 If a person fails to successfully complete the basic training
26 requirements within one (1) year from the date of employment, the
27 officer may not perform any of the duties of a law enforcement officer
28 involving control or direction of members of the public or exercising
29 the power of arrest until the officer has successfully completed the
30 training requirements. This subsection does not apply to any law
31 enforcement officer appointed before July 6, 1972, or after June 30,
32 1993.

33 (c) Military leave or other authorized leave of absence from law
34 enforcement duty during the first year of employment after July 6,
35 1972, shall toll the running of the first year, which shall be calculated
36 by the aggregate of the time before and after the leave, for the purposes
37 of this chapter.

38 (d) Except as provided in subsections (e), (m), (t), and (u), a law
39 enforcement officer appointed to a law enforcement department or
40 agency after June 30, 1993, may not:

41 (1) make an arrest;

42 (2) conduct a search or a seizure of a person or property; or



1 (3) carry a firearm;
 2 unless the law enforcement officer successfully completes, at a board
 3 certified law enforcement academy or at a law enforcement training
 4 center under section 10.5 or 15.2 of this chapter, the basic training
 5 requirements established by the board under this chapter.

6 (e) This subsection does not apply to:

7 (1) a gaming agent employed as a law enforcement officer by the
 8 Indiana gaming commission; or

9 (2) an:

10 (A) attorney; or

11 (B) investigator;

12 designated by the securities commissioner as a police officer of
 13 the state under IC 23-19-6-1(k).

14 Before a law enforcement officer appointed after June 30, 1993,
 15 completes the basic training requirements, the law enforcement officer
 16 may exercise the police powers described in subsection (d) if the
 17 officer successfully completes the pre-basic course established in
 18 subsection (f). Successful completion of the pre-basic course authorizes
 19 a law enforcement officer to exercise the police powers described in
 20 subsection (d) for one (1) year after the date the law enforcement
 21 officer is appointed.

22 (f) The board shall adopt rules under IC 4-22-2 to establish a
 23 pre-basic course for the purpose of training:

24 (1) law enforcement officers;

25 (2) police reserve officers (as described in IC 36-8-3-20); and

26 (3) conservation reserve officers (as described in IC 14-9-8-27);

27 regarding the subjects of arrest, search and seizure, the lawful use of
 28 force, interacting with individuals with autism, and the operation of an
 29 emergency vehicle. The pre-basic course must be offered on a periodic
 30 basis throughout the year at regional sites statewide. The pre-basic
 31 course must consist of at least forty (40) hours of course work. The
 32 board may prepare the classroom part of the pre-basic course using
 33 available technology in conjunction with live instruction. The board
 34 shall provide the course material, the instructors, and the facilities at
 35 the regional sites throughout the state that are used for the pre-basic
 36 course. In addition, the board may certify pre-basic courses that may be
 37 conducted by other public or private training entities, including
 38 postsecondary educational institutions.

39 (g) Subject to subsection (h), the board shall adopt rules under
 40 IC 4-22-2 to establish a mandatory inservice training program for
 41 police officers and police reserve officers (as described in
 42 IC 36-8-3-20). After June 30, 1993, a law enforcement officer who has



1 satisfactorily completed basic training and has been appointed to a law
 2 enforcement department or agency on either a full-time or part-time
 3 basis is not eligible for continued employment unless the officer
 4 satisfactorily completes the mandatory inservice training requirements
 5 established by rules adopted by the board. Inservice training must
 6 include training in interacting with persons with mental illness,
 7 addictive disorders, intellectual disabilities, autism, developmental
 8 disabilities, and Alzheimer's disease or related senile dementia, to be
 9 provided by persons approved by the secretary of family and social
 10 services and the board, and training concerning human and sexual
 11 trafficking, **cultural diversity, unlawful racial profiling, unlawful**
 12 **pretextual stops**, and high risk missing persons (as defined in
 13 IC 5-2-17-1). The board may approve courses offered by other public
 14 or private training entities, including postsecondary educational
 15 institutions, as necessary in order to ensure the availability of an
 16 adequate number of inservice training programs. The board may waive
 17 an officer's inservice training requirements if the board determines that
 18 the officer's reason for lacking the required amount of inservice
 19 training hours is due to either an emergency situation or the
 20 unavailability of courses.

21 (h) This subsection applies only to a mandatory inservice training
 22 program under subsection (g). Notwithstanding subsection (g), the
 23 board may, without adopting rules under IC 4-22-2, modify the course
 24 work of a training subject matter, modify the number of hours of
 25 training required within a particular subject matter, or add a new
 26 subject matter, if the board satisfies the following requirements:

27 (1) The board must conduct at least two (2) public meetings on
 28 the proposed modification or addition.

29 (2) After approving the modification or addition at a public
 30 meeting, the board must post notice of the modification or
 31 addition on the Indiana law enforcement academy's Internet web
 32 site at least thirty (30) days before the modification or addition
 33 takes effect.

34 If the board does not satisfy the requirements of this subsection, the
 35 modification or addition is void. This subsection does not authorize the
 36 board to eliminate any inservice training subject matter required under
 37 subsection (g).

38 (i) The board shall also adopt rules establishing a town marshal
 39 basic training program, subject to the following:

40 (1) The program must require fewer hours of instruction and class
 41 attendance and fewer courses of study than are required for the
 42 mandated basic training program.



- 1 (2) Certain parts of the course materials may be studied by a
 2 candidate at the candidate's home in order to fulfill requirements
 3 of the program.
- 4 (3) Law enforcement officers successfully completing the
 5 requirements of the program are eligible for appointment only in
 6 towns employing the town marshal system (IC 36-5-7) and having
 7 not more than one (1) marshal and two (2) deputies.
- 8 (4) The limitation imposed by subdivision (3) does not apply to an
 9 officer who has successfully completed the mandated basic
 10 training program.
- 11 (5) The time limitations imposed by subsections (b) and (c) for
 12 completing the training are also applicable to the town marshal
 13 basic training program.
- 14 (6) The program must require training in interacting with
 15 individuals with autism.
- 16 (j) The board shall adopt rules under IC 4-22-2 to establish an
 17 executive training program. The executive training program must
 18 include training in the following areas:
- 19 (1) Liability.
 20 (2) Media relations.
 21 (3) Accounting and administration.
 22 (4) Discipline.
 23 (5) Department policy making.
 24 (6) Lawful use of force.
 25 (7) Department programs.
 26 (8) Emergency vehicle operation.
 27 (9) Cultural diversity.
- 28 (k) A police chief shall apply for admission to the executive training
 29 program within two (2) months of the date the police chief initially
 30 takes office. A police chief must successfully complete the executive
 31 training program within six (6) months of the date the police chief
 32 initially takes office. However, if space in the executive training
 33 program is not available at a time that will allow completion of the
 34 executive training program within six (6) months of the date the police
 35 chief initially takes office, the police chief must successfully complete
 36 the next available executive training program that is offered after the
 37 police chief initially takes office.
- 38 (l) A police chief who fails to comply with subsection (k) may not
 39 continue to serve as the police chief until completion of the executive
 40 training program. For the purposes of this subsection and subsection
 41 (k), "police chief" refers to:
 42 (1) the police chief of any city;



- 1 (2) the police chief of any town having a metropolitan police
 2 department; and
 3 (3) the chief of a consolidated law enforcement department
 4 established under IC 36-3-1-5.1.
- 5 A town marshal is not considered to be a police chief for these
 6 purposes, but a town marshal may enroll in the executive training
 7 program.
- 8 (m) A fire investigator in the division of fire and building safety
 9 appointed after December 31, 1993, is required to comply with the
 10 basic training standards established under this chapter.
- 11 (n) The board shall adopt rules under IC 4-22-2 to establish a
 12 program to certify handgun safety courses, including courses offered
 13 in the private sector, that meet standards approved by the board for
 14 training probation officers in handgun safety as required by
 15 IC 11-13-1-3.5(3).
- 16 (o) The board shall adopt rules under IC 4-22-2 to establish a
 17 refresher course for an officer who:
- 18 (1) is hired by an Indiana law enforcement department or agency
 19 as a law enforcement officer;
- 20 (2) has not been employed as a law enforcement officer for:
- 21 (A) at least two (2) years; and
 22 (B) less than six (6) years before the officer is hired under
 23 subdivision (1); and
- 24 (3) completed at any time a basic training course certified or
 25 recognized by the board before the officer is hired under
 26 subdivision (1).
- 27 (p) An officer to whom subsection (o) applies must successfully
 28 complete the refresher course described in subsection (o) not later than
 29 six (6) months after the officer's date of hire, or the officer loses the
 30 officer's powers of:
- 31 (1) arrest;
 32 (2) search; and
 33 (3) seizure.
- 34 (q) The board shall adopt rules under IC 4-22-2 to establish a
 35 refresher course for an officer who:
- 36 (1) is appointed by an Indiana law enforcement department or
 37 agency as a reserve police officer; and
 38 (2) has not worked as a reserve police officer for at least two (2)
 39 years after:
- 40 (A) completing the pre-basic course; or
 41 (B) leaving the individual's last appointment as a reserve
 42 police officer.



1 An officer to whom this subsection applies must successfully complete
 2 the refresher course established by the board in order to work as a
 3 reserve police officer.

4 (r) This subsection applies to an individual who, at the time the
 5 individual completes a board certified or recognized basic training
 6 course, has not been appointed as a law enforcement officer by an
 7 Indiana law enforcement department or agency. If the individual is not
 8 employed as a law enforcement officer for at least two (2) years after
 9 completing the basic training course, the individual must successfully
 10 retake and complete the basic training course as set forth in subsection
 11 (d).

12 (s) The board shall adopt rules under IC 4-22-2 to establish a
 13 refresher course for an individual who:

14 (1) is appointed as a board certified instructor of law enforcement
 15 training; and

16 (2) has not provided law enforcement training instruction for
 17 more than one (1) year after the date the individual's instructor
 18 certification expired.

19 An individual to whom this subsection applies must successfully
 20 complete the refresher course established by the board in order to
 21 renew the individual's instructor certification.

22 (t) This subsection applies only to a gaming agent employed as a
 23 law enforcement officer by the Indiana gaming commission. A gaming
 24 agent appointed after June 30, 2005, may exercise the police powers
 25 described in subsection (d) if:

26 (1) the agent successfully completes the pre-basic course
 27 established in subsection (f); and

28 (2) the agent successfully completes any other training courses
 29 established by the Indiana gaming commission in conjunction
 30 with the board.

31 (u) This subsection applies only to a securities enforcement officer
 32 designated as a law enforcement officer by the securities
 33 commissioner. A securities enforcement officer may exercise the police
 34 powers described in subsection (d) if:

35 (1) the securities enforcement officer successfully completes the
 36 pre-basic course established in subsection (f); and

37 (2) the securities enforcement officer successfully completes any
 38 other training courses established by the securities commissioner
 39 in conjunction with the board.

40 (v) As used in this section, "upper level policymaking position"
 41 refers to the following:

42 (1) If the authorized size of the department or town marshal



- 1 system is not more than ten (10) members, the term refers to the
- 2 position held by the police chief or town marshal.
- 3 (2) If the authorized size of the department or town marshal
- 4 system is more than ten (10) members but less than fifty-one (51)
- 5 members, the term refers to:
- 6 (A) the position held by the police chief or town marshal; and
- 7 (B) each position held by the members of the police
- 8 department or town marshal system in the next rank and pay
- 9 grade immediately below the police chief or town marshal.
- 10 (3) If the authorized size of the department or town marshal
- 11 system is more than fifty (50) members, the term refers to:
- 12 (A) the position held by the police chief or town marshal; and
- 13 (B) each position held by the members of the police
- 14 department or town marshal system in the next two (2) ranks
- 15 and pay grades immediately below the police chief or town
- 16 marshal.

- 17 (w) This subsection applies only to a correctional police officer
- 18 employed by the department of correction. A correctional police officer
- 19 may exercise the police powers described in subsection (d) if:
- 20 (1) the officer successfully completes the pre-basic course
- 21 described in subsection (f); and
- 22 (2) the officer successfully completes any other training courses
- 23 established by the department of correction in conjunction with
- 24 the board.

25 SECTION 3. IC 5-2-24 IS ADDED TO THE INDIANA CODE AS
 26 A NEW CHAPTER TO READ AS FOLLOWS [EFFECTIVE JULY
 27 1, 2020]:

28 **Chapter 24. Prohibition of Racial Profiling and Pretextual Stops**
 29 **Sec. 1. The following definitions apply throughout this chapter:**

- 30 (1) "Commission" refers to the racial profiling review
- 31 commission established by section 9 of this chapter.
- 32 (2) "Law enforcement agency" or "agency" means the
- 33 following:
- 34 (A) A city or town police department.
- 35 (B) A town marshal system.
- 36 (C) A sheriff's department.
- 37 (D) The state police department.
- 38 (E) The law enforcement division of the department of
- 39 natural resources.
- 40 (F) The excise police division of the alcohol and tobacco
- 41 commission.
- 42 (G) A state educational institution police department.



- 1 **(H) A school resource officer.**
2 **(3) "Law enforcement officer" or "officer" means an officer**
3 **of a law enforcement agency.**
4 **(4) "Pretextual stop" means the detention of an individual by**
5 **a law enforcement agency or law enforcement officer for the**
6 **violation of a statute or ordinance to allow the agency or**
7 **officer to investigate a separate and unrelated suspected**
8 **criminal offense.**
9 **(5) "Racial profiling" means:**
10 **(A) the detention;**
11 **(B) the official restraint; or**
12 **(C) other disparate treatment;**
13 **of an individual on the basis of age, sex, color, race, ethnicity,**
14 **religion, national origin, gender identity or expression, sexual**
15 **orientation, immigration or citizenship status, language,**
16 **disability (including HIV status), or socioeconomic status. The**
17 **term does not include a specific suspect based description**
18 **notification.**
19 **(6) "Specific suspect based description notification" means a**
20 **reasonably detailed physical description of the personal**
21 **identifying characteristics of a potential suspect (including**
22 **age, sex, race, or ethnicity) by a law enforcement agency or**
23 **officer.**
24 **Sec. 2. A law enforcement agency or law enforcement officer**
25 **may not engage in racial profiling.**
26 **Sec. 3. A law enforcement agency or law enforcement officer**
27 **may not conduct a pretextual stop.**
28 **Sec. 4. The race or ethnicity of an individual may not be the sole**
29 **factor in:**
30 **(1) determining the existence of probable cause to take into**
31 **custody or to arrest an individual; or**
32 **(2) constituting a particularized suspicion that an offense has**
33 **been or is being committed in order to justify the detention of**
34 **an individual or the investigatory stop of a motor vehicle.**
35 **Sec. 5. (a) Not later than January 1, 2021, a law enforcement**
36 **agency shall adopt a detailed written policy that:**
37 **(1) prohibits racial profiling;**
38 **(2) prohibits pretextual stops;**
39 **(3) clearly defines the elements constituting racial profiling**
40 **and pretextual stops; and**
41 **(4) includes a procedure that the law enforcement agency will**
42 **use to address complaints concerning racial profiling and**



- 1 pretextual stops.
- 2 (b) A law enforcement agency shall make the policy available
- 3 for public inspection during normal business hours.
- 4 Sec. 6. If an investigation of a complaint of racial profiling
- 5 reveals that a law enforcement officer was in direct violation of the
- 6 law enforcement agency's written policy prohibiting racial
- 7 profiling and pretextual stops, the agency shall take appropriate
- 8 action against the officer consistent with the applicable rules,
- 9 ordinances, and policies of the agency.
- 10 Sec. 7. (a) A person or organization that believes that unlawful
- 11 racial profiling or an unlawful pretextual stop has occurred may
- 12 bring an action against the law enforcement officer, law
- 13 enforcement agency, or governmental entity that controls the law
- 14 enforcement agency.
- 15 (b) Filing a complaint under section 6 or 9 of this chapter is not
- 16 a prerequisite for bringing an action under this section.
- 17 (c) The court may award a prevailing plaintiff under this
- 18 section:
- 19 (1) actual damages;
- 20 (2) punitive damages;
- 21 (3) declaratory relief; and
- 22 (4) injunctive relief.
- 23 In addition, a prevailing plaintiff is entitled to reasonable
- 24 attorney's fees, court costs, and expert witness fees.
- 25 Sec. 8. (a) A law enforcement agency shall provide to the
- 26 attorney general:
- 27 (1) a copy of each complaint filed with the agency alleging
- 28 racial profiling or pretextual stops;
- 29 (2) the results of the investigation into each complaint; and
- 30 (3) if the complaint is substantiated, the action taken against
- 31 the offending law enforcement officer.
- 32 (b) A law enforcement agency shall also provide to the attorney
- 33 general the following information:
- 34 (1) The number of pedestrian and vehicular stops conducted
- 35 by the agency.
- 36 (2) The identifying characteristics of each individual stopped,
- 37 including the individual's perceived age, gender, race,
- 38 ethnicity, and English language proficiency.
- 39 (3) The location and duration of each stop.
- 40 (4) The traffic violation alleged to have been committed that
- 41 led to each stop.
- 42 (5) Whether a warning or citation was issued as a result of a



- 1 stop and, if so, the specific violation charged or warning given.
 2 (6) Whether a search was performed as a result of a stop.
 3 (7) If a search was performed as a result of a stop:
 4 (A) whether the person consented to the search;
 5 (B) the probable cause or reasonable suspicion justifying
 6 the search, if applicable;
 7 (C) whether the search was of the individual or the
 8 individual's property, or both; and
 9 (D) the duration of the search.
 10 (8) If a search was of a passenger in a motor vehicle, the
 11 perceived age, gender, race, ethnicity, and English language
 12 proficiency of the passenger.
 13 (9) Whether any contraband was discovered or seized in the
 14 course of a search, including money, and the type of any
 15 contraband discovered or seized.
 16 (10) Whether any physical force was used by or against the
 17 law enforcement officer and the amount of force used.
 18 (11) Whether a search involved canine units or advanced
 19 technology.
 20 (12) Any additional information required by the attorney
 21 general.
 22 (13) Any additional information the law enforcement agency
 23 considers appropriate to include.
 24 (c) Information provided by a law enforcement agency to the
 25 attorney general under this section must be submitted on a
 26 monthly basis.
 27 (d) After removing all personal identifying information
 28 contained in the data, a law enforcement agency shall compile and
 29 conspicuously publish the data collected under this section on the
 30 agency's Internet web site. The data published on the agency's
 31 Internet web site shall be updated at least one (1) time every thirty
 32 (30) days.
 33 (e) The raw data collected by a law enforcement agency and not
 34 published in a compiled and redacted form on the agency's
 35 Internet web site is confidential.
 36 (f) The attorney general shall prepare an annual report in
 37 accordance with IC 4-6-2-13 based on information received under
 38 this section.
 39 Sec. 9. (a) The racial profiling review commission is established.
 40 (b) The commission shall hear and examine complaints of
 41 alleged unlawful racial profiling and pretextual stops. With the
 42 assistance of the civil rights commission, the commission shall



1 adopt rules under IC 4-22-2 and forms for receiving complaints of
2 unlawful racial profiling and pretextual stops.

3 (c) A law enforcement officer who performs a stop on an
4 individual shall provide the individual with notice that the
5 individual has the right to file a complaint with the commission
6 alleging unlawful racial profiling or an unlawful pretextual stop.

7 (d) The commission consists of twelve (12) members appointed
8 as follows:

9 (1) The director of the civil rights commission, or the
10 director's designee, who must be a member of the civil rights
11 commission. The director or the director's designee serves as
12 chairperson of the commission.

13 (2) One (1) member appointed by the governor.

14 (3) One (1) member of a group that supports individuals of
15 color, individuals of all races, and individuals with different
16 ethnicities, appointed by the governor.

17 (4) One (1) member of a group that supports lesbian, gay,
18 bisexual, and transgender individuals, appointed by the
19 governor.

20 (5) One (1) member of a group that supports homeless
21 individuals, appointed by the governor.

22 (6) One (1) member of a group that supports individuals with
23 a disability, appointed by the governor.

24 (7) One (1) member of a group that supports undocumented
25 individuals, appointed by the governor.

26 (8) The superintendent of the Indiana state police department
27 or the superintendent's designee.

28 (9) One (1) member of the Marion County Bar Association,
29 appointed by the governor from a list of at least three (3)
30 members provided to the governor by the president of the
31 Marion County Bar Association.

32 (10) One (1) member of a group that supports women,
33 appointed by the governor.

34 (11) One (1) member representing law enforcement,
35 appointed by the governor from a list of:

36 (A) two (2) individuals submitted by the Indiana State
37 Fraternal Order of Police; and

38 (B) two (2) individuals submitted by the Indiana Black
39 Troopers Association.

40 (12) One (1) member of a group that supports interfaith
41 dialogue and understanding among Christian and
42 non-Christian religious organizations, appointed by the



- 1 governor from a list submitted by one (1) or more groups
2 supporting interfaith dialogue.
- 3 (e) A commission member serves a four (4) year term, except for
4 the superintendent of the Indiana state police department and the
5 director of the civil rights commission, who are ex officio members.
6 If the superintendent of the Indiana state police department or the
7 director of the civil rights commission no longer holds that
8 position, the superintendent or director, or if applicable, the
9 superintendent's or director's designee, ceases to be a member of
10 the commission.
- 11 (f) A commission member, other than the superintendent of the
12 Indiana state police department and the director of the civil rights
13 commission, may be removed only for cause.
- 14 (g) The civil rights commission shall provide a hearing room,
15 staff, and administrative support to the commission.
- 16 (h) Each member of the commission who is not a state employee
17 is entitled to the minimum salary per diem provided by
18 IC 4-10-11-2.1(b). The member is also entitled to reimbursement
19 for traveling expenses as provided under IC 4-13-1-4(7) and other
20 expenses actually incurred in connection with the member's duties
21 as provided in the state policies and procedures established by the
22 Indiana department of administration and approved by the budget
23 agency.
- 24 (i) The affirmative votes of a majority of the voting members
25 appointed to the commission are required for the commission to
26 take action on any measure.
- 27 (j) The commission shall hold one (1) regular meeting each
28 month and may hold additional meetings at the call of the
29 chairperson.
- 30 (k) The commission may subpoena witnesses, compel their
31 attendance, administer oaths, take the testimony of any person
32 under oath, and require the production for examination of any
33 books and papers relating to any matter under investigation or in
34 question before the commission. Refusal to obey a subpoena issued
35 under this section constitutes contempt. A citation of contempt may
36 be issued upon application by the commission to the circuit court
37 or superior court in the county in which the hearing is held or in
38 which the witness resides or transacts business.
- 39 (l) Adjudicative proceedings before the commission shall be
40 conducted in accordance with IC 4-21.5. Judicial review of a
41 commission determination is available under IC 4-21.5-5.
- 42 (m) The commission shall state its findings of fact after a



1 hearing and notify both the complainant and the respondent of the
 2 commission's decision in writing. If the commission finds that a law
 3 enforcement agency or officer has committed unlawful racial
 4 profiling or performed an unlawful pretextual stop, the
 5 commission shall order the respondent to cease and desist from the
 6 unlawful practice. The commission may require the respondent to
 7 take other affirmative action, including:

- 8 (1) reimbursing losses incurred as a result of the unlawful
- 9 racial profiling or pretextual stop;
- 10 (2) requiring the posting of a notice setting forth the
- 11 prohibition of racial profiling and pretextual stops; and
- 12 (3) requiring proof of compliance to be filed by the respondent
- 13 at periodic intervals.

14 A determination by the commission is a final agency action.

15 (n) The commission shall promote the creation of local agencies
 16 to address unlawful racial profiling and pretextual stops.

17 (o) The commission may adopt rules under IC 4-22-2 to carry
 18 out its purposes under this section.

19 Sec. 10. (a) Each law enforcement agency may use federal funds
 20 from community oriented policing services grants or any other
 21 federal source to equip:

- 22 (1) a vehicle used for traffic stops with a video camera and a
- 23 voice activated microphone; and
- 24 (2) a law enforcement officer with a body camera and a voice
- 25 activated microphone.

26 (b) Each law enforcement agency that equips vehicles or officers
 27 with a camera shall do the following:

- 28 (1) Implement a course of instruction that incorporates
- 29 pertinent laws, rules of evidence, departmental policies and
- 30 procedures, and the use and operation of the equipment.
- 31 (2) Implement an introductory vehicle camera and body
- 32 camera course designed specifically for new officers.
- 33 (3) Implement a refresher course for advanced officer
- 34 training.

35 (c) A minor, noncriminal infraction by a law enforcement
 36 officer that is discovered during a routine review of recorded
 37 material must be treated as a training opportunity and not as a
 38 routine disciplinary action, unless the infraction is repeated after
 39 being addressed informally.

40 (d) A criminal action by a law enforcement officer that is
 41 discovered during a routine review of recorded material is subject
 42 to routine disciplinary actions and criminal charges.



1 (e) The chief law enforcement officer of the law enforcement
2 agency involved shall, upon request of an individual who is
3 stopped, provide a copy of the recorded stop to the individual if the
4 recording has not yet been discarded under subsection (i) or (j).

5 (f) On the commencement of an investigation by a law
6 enforcement agency of a complaint of unlawful racial profiling or
7 an unlawful pretextual stop in which a recording of the occurrence
8 on which the complaint is based exists, the agency shall, upon
9 written request, promptly provide a copy of the recording to the
10 individual who made the complaint and to the law enforcement
11 officer who is the subject of the complaint.

12 (g) The:

- 13 (1) chief law enforcement officer of the involved law
- 14 enforcement officer's law enforcement agency;
- 15 (2) commission;
- 16 (3) prosecuting attorney having jurisdiction; and
- 17 (4) attorney for the complainant;

18 are the only parties authorized to access the recording.

19 (h) A video camera installed in a vehicle under a grant under
20 this section must be:

- 21 (1) automatically activated during every traffic stop;
- 22 (2) able to record audio; and
- 23 (3) designed and installed to record a traffic stop in its
24 entirety.

25 The camera may not be equipped with a manual shutoff switch and
26 must be activated for the entirety of a traffic stop.

27 (i) The chief law enforcement officer of a law enforcement
28 agency receiving a grant under this section shall ensure that each
29 recording is stored for at least ninety (90) days after being made.
30 A recording must be stored and maintained in an ordered and
31 accessible manner.

32 (j) The chief law enforcement officer of a law enforcement
33 agency may not discard a recording if the recording is evidence in
34 an investigation, an administrative proceeding, or a civil action.
35 Unless the chief law enforcement officer has not been instructed to
36 maintain a recording for a longer period by:

- 37 (1) a court;
- 38 (2) the commission;
- 39 (3) a prosecuting attorney with jurisdiction; or
- 40 (4) a person or organization that has requested an
41 investigation, or has filed a complaint, an administrative
42 proceeding, or a civil action concerning unlawful racial



1 **profiling or pretextual stops;**
2 **the chief law enforcement officer may discard the recording after**
3 **ninety (90) days.**
4 **(k) If available, a camera and a voice activated microphone shall**
5 **be used by uniformed officers and in marked vehicles. A camera**
6 **and voice activated microphone shall be used in:**
7 **(1) all routine stops of individuals and vehicles, whether**
8 **spontaneous or planned; and**
9 **(2) each operation involving the planned use of force, even if**
10 **the operation involves nonuniformed officers.**
11 **(l) A law enforcement officer shall, whenever practicable, notify**
12 **individuals that they are being recorded. An officer may meet this**
13 **requirement by wearing an easily visible pin stating "lapel camera**
14 **in operation".**

