

1 SB84
2 181526-1
3 By Senator Smitherman
4 RFD: Judiciary
5 First Read: 09-JAN-18

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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 solely on the basis of the racial or ethnic
11 status of persons.

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

15 This bill would require county and municipal
16 police departments and the Alabama State Law
17 Enforcement Agency to adopt written policies to
18 prohibit racial profiling; would require the
19 adoption of the forms to be used for statistics of
20 traffic stops; would provide for complaints; and
21 would require reports to be filed in the Office of
22 the Attorney General.

23 Amendment 621 of the Constitution of Alabama
24 of 1901, now appearing as Section 111.05 of the
25 Official Recompilation of the Constitution of
26 Alabama of 1901, as amended, prohibits a general
27 law whose purpose or effect would be to require a

1 new or increased expenditure of local funds from
2 becoming effective with regard to a local
3 governmental entity without enactment by a 2/3 vote
4 unless: it comes within one of a number of
5 specified exceptions; it is approved by the
6 affected entity; or the Legislature appropriates
7 funds, or provides a local source of revenue, to
8 the entity for the purpose.

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

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18 A BILL
19 TO BE ENTITLED
20 AN ACT
21

22 Relating to traffic stops; to prohibit a law
23 enforcement officer from engaging in racial profiling; to
24 require adoption of written policies and the forms to be used
25 for statistics on traffic stops; to provide for complaints; to
26 require reports to be filed in the Office of the Attorney
27 General; and in connection therewith to have as its purpose or

1 effect the requirement of a new or increased expenditure of
2 local funds within the meaning of Amendment 621 of the
3 Constitution of Alabama of 1901, now appearing as Section
4 111.05 of the Official Recompilation of the Constitution of
5 Alabama of 1901, as amended.

6 BE IT ENACTED BY THE LEGISLATURE OF ALABAMA:

7 Section 1. (a) For the purposes of this section,
8 "traffic stops based on racial profiling" shall mean the
9 detention, interdiction, or other disparate treatment of a
10 motorist solely on the basis of the racial or ethnic status of
11 the motorist.

12 (b) No member of the Alabama State Law Enforcement
13 Agency, a county or municipal police department, or any other
14 law enforcement agency shall engage in traffic stops based on
15 racial profiling. The detention of an individual based on any
16 noncriminal factor or combination of noncriminal factors shall
17 be inconsistent with this policy.

18 (c) The race or ethnicity of a motorist shall not be
19 the sole factor in determining the existence of probable cause
20 to place in custody, to make an arrest of the motorist, or in
21 constituting a reasonable and articulable suspicion that an
22 offense has been or is being committed to justify the
23 detention of the motorist or the investigatory stop of a motor
24 vehicle.

25 Section 2. (a) No later than January 1, following
26 the effective date of this act, each county and municipal
27 police department and the Alabama State Law Enforcement Agency

1 shall adopt a written policy that prohibits the stopping,
2 detention, or search of any motorist when the action is solely
3 motivated by considerations of race, color, ethnicity, age,
4 gender, or sexual orientation, and the action would constitute
5 a violation of the civil rights of the person.

6 (b) Commencing on January 1, following the effective
7 date of this act, each county and municipal police department
8 and the Alabama State Law Enforcement Agency, using the form
9 developed and promulgated pursuant to Section 3, shall record
10 and retain all of the following information:

11 (1) The number of persons stopped for traffic
12 violations.

13 (2) Characteristics of race, color, ethnicity,
14 gender, and age of the persons, provided the identification of
15 the characteristics shall be based on the observation and
16 perception of the law enforcement officer responsible for
17 reporting the stop and the information shall not be required
18 to be provided by the person stopped.

19 In addition to the foregoing, when a law enforcement
20 officer provides the aforementioned observed characteristics
21 of the person stopped, the same characteristics of the law
22 enforcement officer shall be provided in the same manner and
23 adjacent to the information regarding the person stopped.

24 (3) The nature of the alleged traffic violation that
25 resulted in the stop.

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

1 (5) Any additional information that the county or
2 municipal police department or the Alabama State Law
3 Enforcement Agency deems appropriate.

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

9 (d) Demographic information collected in good faith
10 by a law enforcement officer pursuant to the requirements of
11 this section shall not serve as the basis of any civil action.

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

21 (f) On or before October 1 of the second year
22 following the effective date of this act, and annually
23 thereafter, each county and municipal police department and
24 the Alabama State Law Enforcement Agency shall provide to the
25 Attorney General, in the form the Attorney General shall
26 prescribe, a summary report of the information recorded
27 pursuant to subsection (b).

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

10 Section 3. No later than January 1, following the
11 effective date of this act, the Attorney General, in
12 conjunction with the Secretary of the Alabama State Law
13 Enforcement Agency, the Administrative Office of Courts, and
14 the Peace Officers' Standards and Training Commission shall
15 develop and promulgate both of the following:

16 (1) A form, in both printed and electronic format,
17 to be used by a law enforcement officer when making a traffic
18 stop to record personal identifying information about the
19 operator of the motor vehicle that is stopped and the personal
20 identifying information about the law enforcement officer, the
21 location of the stop, the reason for the stop, and other
22 information that is required to be recorded pursuant to
23 subsection (b) of Section 2.

24 (2) A form in both printed and electronic format, to
25 be used to report complaints pursuant to Section 2 by persons
26 who believe that they have been subjected to a motor vehicle

1 stop by a law enforcement officer solely on the basis of their
2 race, color, ethnicity, age, gender, or sexual orientation.

3 Section 4. 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 5. 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.