SB21

196686-1

By Senator Smitherman

RFD: Judiciary

First Read: 05-MAR-19

PFD: 01/30/2019
SYNOPSIS: Existing law does not require the keeping of statistics to determine if traffic stops are being made by state and local law enforcement officers solely on the basis of the racial or ethnic status of persons.

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

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

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

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

A BILL
TO BE ENTITLED
AN ACT

Relating to traffic stops and state and local law enforcement officers; to prohibit a law enforcement officer from engaging in racial profiling; to require adoption of
written policies and the forms to be used for statistics on traffic stops; to provide for complaints; to require reports to be filed in the Office of the Attorney General; to provide for the reporting and collection of data on injuries to state and local law enforcement officers; and in connection therewith to have as its purpose or effect the requirement of a new or increased expenditure of local funds within the meaning of Amendment 621 of the Constitution of Alabama of 1901, now appearing as Section 111.05 of the Official Recompilation of the Constitution of Alabama of 1901, as amended.

BE IT ENACTED BY THE LEGISLATURE OF ALABAMA:

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

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

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

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

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

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

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

b. In addition to paragraph a., when a law
enforcement officer provides the observed characteristics
listed in paragraph a. of the person stopped, the same
characteristics of the law enforcement officer shall be provided in the same manner and adjacent to the information regarding the person stopped.

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

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

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

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

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

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

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

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

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

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

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

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

(c) The form provided for in subsection (b) shall be filed with the Peace Officers' Standards and Training Commission and the Alabama State Law Enforcement Agency and compiled by the commission and agency to give the commission
and agency information on the nature and extent of injuries to
state and local law enforcement officers in the line of duty.

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

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

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