

1 SB91
2 209019-1
3 By Senator Smitherman
4 RFD: Judiciary
5 First Read: 02-FEB-21
6 PFD: 01/27/2021

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 the
11 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 purposes of this section,
14 "traffic stops based on racial profiling" means the detention,
15 interdiction, or other disparate treatment of a motorist
16 solely on the basis of the racial or ethnic status of the
17 motorist.

18 (b) No employee 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, 2022, each
5 county and municipal police department and the Alabama State
6 Law Enforcement Agency shall adopt a written policy that
7 prohibits the stopping, detention, or search of any motorist
8 when the action is solely motivated by considerations of race,
9 color, ethnicity, age, gender, or sexual orientation, and the
10 action would constitute a violation of the civil rights of the
11 motorist.

12 (b) Commencing on January 1, 2022, each county and
13 municipal police department and the Alabama State Law
14 Enforcement Agency, using the form developed and adopted
15 pursuant to Section 3, shall record and retain all of the
16 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 motorist, provided the identification
21 of 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 motorist being stopped.

25 b. The characteristics described in paragraph a. of
26 the law enforcement officer.

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

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

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

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

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

23 (f) On or before October 1, 2023, and annually
24 thereafter, each county and municipal police department and
25 the Alabama State Law Enforcement Agency shall provide to the
26 Attorney General, in the form the Attorney General shall

1 prescribe, a summary report of the information recorded
2 pursuant to subsection (b).

3 (g) The Attorney General, within the limits of
4 existing appropriations, shall provide for a review of the
5 prevalence and disposition of traffic stops and complaints
6 reported pursuant to this act. No later than the fifth
7 legislative day of the Regular Session of the Legislature of
8 Alabama, commencing in the year 2023, the Attorney General
9 shall report to the Governor and the Legislature of Alabama
10 the results of the review, including any recommendations.

11 Section 3. No later than January 1, 2022, the
12 Attorney General, in conjunction with the Secretary of the
13 Alabama State Law Enforcement Agency, the Administrative
14 Office of Courts, and the Peace Officers' Standards and
15 Training Commission shall develop and adopt both of the
16 following:

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

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

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

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

7 (b) Not later than January 1, 2022, each county law
8 enforcement agency, each municipal police department, and each
9 state law enforcement agency shall adopt a written policy and
10 a form to collect information on any serious injury to a law
11 enforcement officer under its jurisdiction in the line of
12 duty. The form shall include the official action that was
13 required in the line of duty, the type of injury and extent of
14 injury, whether the injury is expected to result in a
15 temporary or permanent disability, the costs of treatment and
16 medical care, whether an arrest or citation was issued or
17 prosecution commenced, and any other information determined to
18 be pertinent to the injury.

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

25 Section 5. Amendment 621 of the Constitution of
26 Alabama of 1901, now appearing as Section 111.05 of the
27 Official ReCompilation of the Constitution of Alabama of 1901,

1 as amended, prohibits a general law whose purpose or effect
2 would be to require a new or increased expenditure of local
3 funds from becoming effective with regard to a local
4 governmental entity without enactment by a 2/3 vote unless: it
5 comes within one of a number of specified exceptions; it is
6 approved by the affected entity; or the Legislature
7 appropriates 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 to
10 require a new or increased expenditure of local funds within
11 the meaning of the amendment. If this bill is not enacted by a
12 2/3 vote, it will not become effective with regard to a local
13 entity unless approved by the local entity or until, and only
14 as long as, the Legislature appropriates funds or provides for
15 a local source of revenue.

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