

Senate File 2267 - Introduced

SENATE FILE 2267
BY COMMITTEE ON JUDICIARY

(SUCCESSOR TO SF 2173)

A BILL FOR

1 An Act relating to law enforcement profiling by standardizing
2 the collection and centralizing the compilation and
3 reporting of officer stop and complaint data, providing for
4 officer training, creating a community policing advisory
5 board, providing for penalties and remedies, and including
6 effective date provisions.

7 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:

1 Section 1. NEW SECTION. 80G.1 Purpose — construction.

2 The citizens of this state appreciate the hard work and
3 dedication of peace officers who risk their lives every day
4 on behalf of the citizens of this state. Instituting best
5 practices to reduce profiling ensures that all of its citizens
6 benefit from good investigatory work performed by peace
7 officers on a daily basis.

8 It is the purpose of this chapter to prohibit the use of
9 profiling and to create a safer state for all of its citizens.
10 Furthermore, the purpose of this chapter is to provide for the
11 collection of relevant data to expose profiling practices,
12 to define and implement the best practices that the citizens
13 of this state are entitled to expect from law enforcement
14 agencies, to provide officers with the proper training, and
15 to provide remedies for profiling. This chapter shall be
16 construed broadly to implement this purpose.

17 Sec. 2. NEW SECTION. 80G.2 Definitions.

18 As used in this chapter, unless the context otherwise
19 requires:

20 1. "Board" means the community policing advisory board.

21 2. "Exonerated" means an investigation's conclusion that
22 clearly establishes that the actions of an officer that formed
23 the basis of a complaint are not a violation of law or agency
24 policy.

25 3. "Law enforcement activities" includes but is not limited
26 to any of the following: traffic, bicyclist, or pedestrian
27 stops; actions during a stop, including asking questions;
28 frisks; consensual and nonconsensual searches of an individual
29 or any property; seizing any property; removing occupants from
30 a motor vehicle during a traffic stop; issuing a citation; and
31 making an arrest.

32 4. "Not sustained" means an investigation's conclusion
33 that sufficient evidence does not clearly prove or disprove an
34 allegation in a complaint.

35 5. "Officer" means a peace officer, as defined in section

1 801.4, including while employed off-duty by a private employer
2 and in uniform.

3 6. "*Personal identifying information*" means an individual's
4 name, address, or any other information that would allow a
5 third party to identify the individual by name.

6 7. "*Pretextual stop*" means a stop of a driver of a motor
7 vehicle, a bicyclist, or a pedestrian by an officer if all of
8 the following apply:

9 a. The decision to make the stop was the result of
10 discrimination based upon profiling.

11 b. The stated reason for the stop is not in fact the real
12 reason but is instead a pretext to conceal the real reason for
13 the stop.

14 c. The real reason for the stop is to enable the officer to
15 inquire into subjects about which the officer has no reasonable
16 basis to inquire or to seek information for which the officer
17 does not possess independent evidence constituting probable
18 cause or reasonable suspicion.

19 8. "*Profiling*" means any of the following:

20 a. A consideration of or a reliance upon, to any degree,
21 any of the following traits when deciding to initiate law
22 enforcement activities including the use and scope of such
23 activities: actual or perceived race, color, ethnicity,
24 religion, national origin, gender identity or expression,
25 sexual orientation, English language proficiency, or mental or
26 physical disability.

27 b. A pretextual stop that is the basis for discrimination.

28 9. "*Specific suspect description-based identification*" means
29 a reasonably detailed physical description by an officer of the
30 personal identifying characteristics of a potential suspect
31 including but not limited to age, sex, ethnicity, race, or
32 English language proficiency.

33 10. "*Stop*" means any of the following:

34 a. The detention of an individual by an officer, including
35 a temporary detention.

1 *b.* An officer's interaction with an individual where the
2 officer conducts a search, including a consensual search of an
3 individual's body or property in the possession or control of
4 the individual.

5 11. "*Sustained*" means an investigation's conclusion that
6 sufficient evidence proves the truth of an allegation in a
7 complaint in the complaint by a preponderance of evidence.

8 12. "*Unfounded*" means an investigation's conclusion that
9 clearly establishes that an allegation is not true.

10 Sec. 3. NEW SECTION. **80G.3 Profiling — prohibition —**
11 **allowed policy and actions.**

12 1. An officer shall not engage in profiling.

13 2. This section shall not prohibit any of the following:

14 *a.* A law enforcement agency's policy allowing the use of
15 information that has been provided by a victim describing the
16 personal identifying characteristics of an alleged perpetrator
17 of a crime in order to seek out individuals who match that
18 description.

19 *b.* An action by an officer that relies upon any of the
20 following:

21 (1) A specific suspect description-based identification.

22 (2) An individual's observed behavior linking another
23 individual to suspected unlawful activity that establishes
24 probable cause or a reasonable suspicion that criminal activity
25 is afoot.

26 (3) Other trustworthy information or circumstances,
27 relevant to the locality and time frame linking an individual
28 to suspected unlawful activity that establishes probable cause
29 or a reasonable suspicion that criminal activity is afoot.

30 Sec. 4. NEW SECTION. **80G.4 Community policing advisory**
31 **board — establishment and role.**

32 1. The attorney general shall establish a community
33 policing advisory board for the purpose of recognizing and
34 promoting awareness of profiling by law enforcement, providing
35 advice in the development of best practices to prevent

1 profiling, and monitoring implementation of best practices in
2 the field of law enforcement. In establishing the board, the
3 attorney general shall ensure that the board is racially and
4 ethnically diverse and gender balanced. The attorney general
5 shall also provide or arrange for necessary staff to assist the
6 board.

7 2. *a.* The board shall consist of fifteen voting members
8 and two *ex officio*, nonvoting members. The attorney general
9 shall appoint nine voting members nominated from the following
10 described organizations or groups or who hold the following
11 described positions:

12 (1) Four representatives from community organizations
13 historically associated with efforts to eliminate racial
14 discrimination that work with victims of racial and other
15 profiling, of whom one representative shall be at least sixteen
16 years of age but not more than twenty-four years of age at the
17 time of appointment.

18 (2) Three representatives from advocacy groups that support
19 individuals who have experienced discrimination based on race,
20 color, ethnicity, religion, national origin, gender identity
21 or expression, sexual orientation, immigration or citizenship
22 status, language, or mental or physical disability status.

23 (3) Two members of the clergy who have significant
24 experience in addressing and reducing racial discrimination and
25 other biases.

26 *b.* The following six *ex officio*, voting members shall serve
27 on the board:

28 (1) The attorney general or the attorney general's
29 designee.

30 (2) The director of the Iowa law enforcement academy.

31 (3) The state public defender or the state public defender's
32 designee.

33 (4) The director of the Iowa civil rights commission.

34 (5) The president of the board of directors of the Iowa
35 police chiefs association, or the president's designee;

1 (6) The president of the Iowa state sheriffs' and deputies'
2 association or the president's designee.

3 c. The board shall include two members of the general
4 assembly who shall serve as ex officio, nonvoting members. The
5 legislative members shall be appointed as follows:

6 (1) One member of the senate appointed by the majority
7 leader of senate.

8 (2) One member of the house of representatives appointed by
9 the speaker of the house of representatives.

10 3. Notwithstanding section 7E.6, nonlegislative members
11 shall only receive reimbursement for actual expenses for
12 performance of their official duties as members of the board.
13 Members of the general assembly shall not receive a per diem
14 but shall receive reimbursement for necessary travel and actual
15 expenses incurred in the performance of their official duties.

16 4. The board may act or make recommendations only upon a
17 vote of a majority of the voting membership of the board.

18 5. a. The initial term of a member appointed pursuant
19 to subsection 2, paragraph "a", subparagraph (1), shall be
20 four years, and after the initial term has been served, the
21 appointment shall be for a term of four years.

22 b. The initial term of a member appointed pursuant to
23 subsection 2, paragraph "a", subparagraph (2) or (3), shall
24 be two years, and after the initial term has been served, the
25 appointment shall be for a term of four years.

26 6. Each year the board shall elect two of its voting members
27 as co-chairpersons.

28 7. The board shall do all of the following by April 1, 2017:

29 a. Adopt rules pursuant to chapter 17A.

30 b. Develop a standard notice form to be provided to an
31 individual stopped by an officer, when practicable, informing
32 the individual of the individual's right to file a complaint
33 with the Iowa civil rights commission if the individual
34 believes that the individual has been a victim of profiling.

35 c. Advise the attorney general regarding the attorney

1 general's development of guidelines for the collection,
2 compilation, and reporting of traffic, bicycle, and pedestrian
3 stop data in order to ensure uniform reporting practices across
4 all reporting law enforcement agencies.

5 8. Each year beginning July 1, 2017, the board shall do all
6 of the following:

7 a. Evaluate and comment upon the data compiled and reported
8 to the attorney general and the analysis of such data by the
9 division of criminal and juvenile justice planning of the
10 department of human rights.

11 b. Assess the collection, compilation, and reporting of
12 traffic, bicycle, and pedestrian stop data by law enforcement
13 agencies, the effectiveness of law enforcement training under
14 section 80G.8, and determine methods, if any, by which these
15 activities could be improved or made more effective.

16 c. Work in partnership with state and local law enforcement
17 agencies to review and analyze profiling across geographic
18 areas of this state.

19 d. Consult available evidence-based research on intentional
20 and implicit biases, and their impact on law enforcement stop,
21 search, and seizure tactics.

22 e. (1) Issue an annual report that provides the board's
23 analysis of the board activities required by paragraphs "a"
24 through "d", makes detailed findings on the past and current
25 status of profiling, and makes policy recommendations for
26 eliminating profiling and other discriminatory practices. The
27 report shall include disaggregated statistical data for each
28 reporting law enforcement agency. The report shall include,
29 at a minimum, each reporting law enforcement agency's total
30 results for each data collection criteria for the calendar
31 year.

32 (2) The report shall be retained and made available to the
33 public by posting the report on the attorney general's internet
34 site. The report shall first be issued by February 1, 2018,
35 and by February 1 every year thereafter.

1 (3) The report is a public record within the meaning of
2 chapter 22 subject to public inspection under that chapter 22.

3 *f.* Hold at least three annual public meetings to discuss
4 profiling and potential reforms to prevent profiling. The
5 board shall provide notice to the public of the location of
6 each public meeting at least sixty days before the date of the
7 meeting.

8 9. The board shall be subject to the provisions of chapters
9 21 and 22.

10 Sec. 5. NEW SECTION. **80G.5 Standard notice form and**
11 **complaint.**

12 A law enforcement agency shall require, when practicable, an
13 officer who makes a stop to provide to the individual stopped
14 the standard notice form developed by the board informing the
15 individual of the individual's right to file a complaint with
16 the Iowa civil rights commission if the individual believes
17 that the individual has been a victim of profiling.

18 Sec. 6. NEW SECTION. **80G.6 Reporting data and citizen**
19 **complaints to the attorney general by a law enforcement agency.**

20 1. A law enforcement agency shall collect, compile, and
21 report annually to the attorney general on a standardized form
22 developed by the attorney general the following information for
23 law enforcement activities related to a traffic, bicycle, or
24 pedestrian stop:

25 *a.* The time, date, location, and duration of the stop.

26 *b.* The reason for the stop.

27 *c.* The results of the stop.

28 *d.* The warning given or citation issued, if applicable.

29 *e.* The offense the individual was arrested for, if
30 applicable.

31 *f.* The identifying characteristics of the individual
32 stopped, including perceived race, ethnicity, English language
33 proficiency, sex, and approximate age. The identification of
34 these characteristics shall be based principally on information
35 on the individual's driver's license or nonoperator's

1 identification card and only secondarily on the observation
2 and perception of the officer making the stop. The officer
3 shall not be required to inquire about the race, ethnicity,
4 and English language proficiency of an individual stopped but
5 shall rely principally on such information encrypted on a
6 driver's license or nonoperator's identification card pursuant
7 to section 321.189 or 321.190. The identifying characteristics
8 of a passenger in a motor vehicle shall also be reported if the
9 stop involved both the passenger and a search reported under
10 paragraph "g".

11 *g.* Actions taken by an officer during the stop, including
12 but not limited to the following, as applicable:

13 (1) Whether the officer asked for consent to search the
14 individual and whether consent was provided.

15 (2) Whether the officer searched the individual or any
16 property, and if a search was performed, the basis for the
17 search, the scope and duration of the search, and the type of
18 contraband, including moneys, or evidence discovered in the
19 search.

20 (3) Whether the officer seized any property, and a complete
21 description of the property that was seized and the basis for
22 seizing the property.

23 (4) Whether the officer used physical force or physical
24 force was used against the officer, and a complete description
25 of the extent force was used.

26 (5) Whether the search involved the use of a canine or
27 advanced technology, and a complete description of the type and
28 circumstances of any such search.

29 *h.* Other information which the officer or law enforcement
30 agency considers appropriate.

31 2. A law enforcement agency shall report annually to
32 the attorney general the total number of citizen complaints
33 received by the law enforcement agency or by a citizens review
34 board, if applicable, alleging misconduct by an officer. The
35 report shall also be disaggregated as follows:

1 *a.* All citizen complaints received by the law enforcement
2 agency alleging criminal conduct by its officers.

3 *b.* (1) All citizen complaints received by a law enforcement
4 agency alleging profiling by its officers.

5 (2) The complaints under this paragraph shall be
6 disaggregated by race, color, ethnicity, religion, national
7 origin, gender identity or expression, sexual orientation,
8 English language proficiency, or mental or physical disability.

9 (3) While maintaining the disaggregation of the complaints
10 under subparagraph (2), the complaints shall be placed into the
11 following disposition categories:

12 (a) Sustained.

13 (b) Exonerated.

14 (c) Not sustained.

15 (d) Unfounded.

16 3. If a law enforcement agency is noncompliant with the
17 collection, compilation, and reporting duties of this section,
18 the attorney general shall take necessary action, including
19 seeking a writ of mandamus and other appropriate judicial
20 remedies, to secure compliance.

21 Sec. 7. NEW SECTION. **80G.7 Data compilation by attorney**
22 **general.**

23 1. The attorney general, in consultation with the
24 board and the Iowa civil rights commission, and with input
25 from stakeholders including federal, state, and local law
26 enforcement agencies, local communities, researchers, and
27 civil rights organizations, shall adopt rules pursuant to
28 chapter 17A for law enforcement agency collection, compilation,
29 and reporting of law enforcement activities data related to
30 traffic, bicycle, and pedestrian stops, and citizen complaints.
31 The rules adopted under this section must do the following:

32 *a.* Require a law enforcement agency to collect and compile
33 data as required by section 80G.6, and report such data to
34 the attorney general, that identifies all law enforcement
35 activities related to traffic, bicycle, and pedestrian stops

1 and all citizen complaints on a standardized form developed by
2 the attorney general.

3 *b.* Require a law enforcement agency to prominently publicize
4 the compiled data reported to the attorney general pursuant
5 to section 80G.6, on at least a monthly basis, on the law
6 enforcement agency's internet site, or make such data available
7 electronically within seven days upon request if the law
8 enforcement agency lacks an internet site.

9 *c.* Require each law enforcement agency to maintain all data
10 collected, compiled, and reported pursuant to section 80G.6 for
11 at least four years.

12 *d.* Provide for the protection and privacy of any personal
13 identifying information about the officer or the individual
14 stopped that is contained in the data by removing any such
15 personal identifying information prior to reporting the data
16 to the attorney general, or publicizing the data pursuant to
17 paragraph "b".

18 2. Except as otherwise provided in this section, a
19 law enforcement agency shall not grant access to personal
20 identifying information contained in the data collected by
21 the law enforcement agency to any person except to a federal,
22 state, local, or tribal government employee or agent who
23 requires access to such information in order to collect,
24 compile, and report the data.

25 3. A law enforcement agency may permit a contractor
26 or nongovernmental agent access to personal identifying
27 information that is contained in the data collected, if the
28 contractor or nongovernmental agent signs an agreement which
29 prohibits further disclosure of the personal identifying
30 information beyond disclosure to the contractor or
31 nongovernmental agent, and if the contractor or nongovernmental
32 agent assures the law enforcement agency in the agreement that
33 adequate security measures have been implemented to prevent
34 unauthorized access to the personal identifying information.

35 4. *a.* The attorney general shall in turn compile all data

1 reported pursuant to this section for analysis. The attorney
2 general shall provide the compiled data to the board, the Iowa
3 civil rights commission, and the division of criminal and
4 juvenile justice planning of the department of human rights,
5 and to any other agency, board, or department the attorney
6 general deems appropriate.

7 *b.* The division of criminal and juvenile justice planning
8 of the department of human rights shall analyze the data
9 and provide an analysis of the data in a timely manner to
10 the attorney general, the board, and the Iowa civil rights
11 commission in statistical form.

12 5. In consultation with the board, the attorney general
13 shall prescribe guidelines recommending best practices to
14 alleviate profiling, setting comparative benchmarks consistent
15 with best practices against which collected and compiled
16 data shall be monitored and measured, while providing for
17 the protection and the privacy of the personal identifying
18 information of individuals whose data is collected and compiled
19 pursuant to this chapter.

20 6. The attorney general shall report specific data in
21 statistical form for each reporting law enforcement agency on
22 an annual basis to the Iowa civil rights commission, the board,
23 and to the public. The public report shall be accessible from
24 a prominent place on the attorney general's internet site.

25 7. The data compiled pursuant to this section is admissible
26 in individual and pattern and practice disparate treatment
27 profiling cases and in disparate impact profiling cases under
28 the Iowa civil rights Act, chapter 216.

29 Sec. 8. NEW SECTION. **80G.8 Training.**

30 1. A law enforcement agency shall provide annual training
31 to officers on issues related to profiling prevention, data
32 collection, and reporting methods. Every officer in the state
33 must participate in annual training in accordance with this
34 section.

35 2. The Iowa law enforcement academy shall develop and

1 disseminate training guidelines for all officers consistent
2 with the best practices guidelines issued by the attorney
3 general pursuant to section 80G.7, subsection 5.

4 3. Every officer shall adhere to the training guidelines
5 developed by the Iowa law enforcement academy pursuant to this
6 section. The training guidelines shall include all of the
7 following:

8 a. An emphasis on officer understanding and respect
9 for diverse communities and the importance of effective,
10 noncombative methods of carrying out law enforcement activities
11 in a diverse community.

12 b. Instruction on diverse communities in order to foster
13 mutual respect and cooperation between law enforcement and
14 members of all diverse communities.

15 c. An examination of the patterns, practices, and protocols
16 that cause profiling, and the tools to prevent such actions.

17 d. An examination and identification of key indices and
18 perspectives that make up differences among residents in a
19 local community.

20 e. Instruction on implicit bias and consideration of the
21 negative impact of bias, whether intentional or implicit,
22 on effective law enforcement, including examination of how
23 historical perceptions of profiling have harmed community
24 relations.

25 f. Instruction on the perspectives of diverse local
26 constituency groups from experts on particular cultural and law
27 enforcement-community relations issues in a local area.

28 g. A presentation of the history and the role of the civil
29 rights movement and the impact on law enforcement.

30 h. Instruction about this chapter's prohibition of profiling
31 and each officer's specific obligations to prevent, report, and
32 respond to profiling by fellow officers and to comply with the
33 collection, compilation, and reporting responsibilities under
34 this chapter.

35 4. In developing the training guidelines, the Iowa law

1 enforcement academy shall consult with the Iowa civil rights
2 commission, the board, groups and individuals having an
3 interest and expertise in the field of cultural awareness and
4 diversity, as well as advocacy organizations with an interest
5 and expertise in the field of profiling.

6 Sec. 9. NEW SECTION. 80G.9 Reporting profiling —
7 prevention and retaliation.

8 1. An officer has an obligation to prevent, report, and
9 respond to profiling, discrimination, or biased practices by
10 a fellow officer.

11 2. An officer or an employee of a law enforcement agency
12 who retaliates against an officer or employee for making a
13 charge, testifying against, assisting, or participating in any
14 manner in an investigation, proceeding, or hearing related to
15 profiling shall be subject to discipline, including dismissal.

16 3. An officer or employee of a law enforcement agency who
17 retaliates against an officer or employee who files a report of
18 an occurrence of profiling against an officer commits a simple
19 misdemeanor.

20 Sec. 10. NEW SECTION. 80G.10 Statutory remedies not
21 exclusive.

22 The remedies authorized in this chapter are not exclusive
23 and do not foreclose an individual from asserting any remedies
24 the individual may have based on the common law or other
25 statutes.

26 Sec. 11. Section 216.2, subsection 15, Code 2016, is amended
27 to read as follows:

28 15. "*Unfair practice*" or "*discriminatory practice*" means
29 those practices specified as unfair or discriminatory in
30 sections 216.6, 216.6A, 216.7, 216.8, 216.8A, 216.9, 216.10,
31 216.10A, 216.11, and 216.11A.

32 Sec. 12. Section 216.6, subsection 1, Code 2016, is amended
33 by adding the following new paragraph:

34 NEW PARAGRAPH. e. Employer or the employees or agents
35 thereof to discriminate against an employee because the

1 employee makes a charge, testifies against, assists, or
2 participates in any manner in an investigation, proceeding, or
3 hearing related to profiling pursuant to chapter 80G.

4 Sec. 13. NEW SECTION. 216.10A Unfair profiling practice.

5 1. It shall be an unfair discriminatory practice for a peace
6 officer to engage in profiling as described in chapter 80G.

7 2. This section shall not apply to:

8 a. A law enforcement agency's policy to use information
9 that has been provided by a victim describing the personal
10 identifying characteristics of a perpetrator of a crime in
11 order to seek out persons who match that description.

12 b. Any actions that rely upon:

13 (1) A specific suspect description-based identification.

14 (2) A person's observed behavior that links a person to
15 suspected unlawful activity establishing probable cause or
16 reasonable suspicion that criminal activity is afoot.

17 (3) Other trustworthy information or circumstances,
18 relevant to the locality and timeframe that links a person to
19 suspected unlawful activity establishing probable cause or
20 reasonable suspicion that criminal activity is afoot.

21 Sec. 14. Section 321.189, subsection 2, Code 2016, is
22 amended by adding the following new paragraph:

23 NEW PARAGRAPH. *od.* The department shall encrypt race,
24 ethnicity, and English language proficiency information on a
25 driver's license.

26 Sec. 15. Section 321.190, subsection 1, paragraph b,
27 subparagraph (1), Code 2016, is amended to read as follows:

28 (1) The department shall not issue a card to a person
29 holding a driver's license. However, a card may be issued to
30 a person holding a temporary permit under [section 321.181](#).

31 The card shall be identical in form, including any encrypted
32 information, to a driver's license issued under [section 321.189](#)
33 except the word "nonoperator" shall appear prominently on the
34 face of the card.

35 Sec. 16. IMPLEMENTATION OF ACT. Section 25B.2, subsection

1 3, shall not apply to this Act.

2 Sec. 17. EFFECTIVE DATE. This Act takes effect October 1,
3 2016.

4 EXPLANATION

5 The inclusion of this explanation does not constitute agreement with
6 the explanation's substance by the members of the general assembly.

7 This bill relates to law enforcement profiling by
8 standardizing the collection and centralizing the compilation
9 and reporting of officer stop and complaint data, providing for
10 officer training, creating a community policing advisory board,
11 and providing certain penalties and remedies.

12 DEFINITIONS. The bill defines "profiling" to mean a
13 consideration of or a reliance upon, to any degree, certain
14 characteristics when deciding to initiate law enforcement
15 activities including the use and scope of such activities:
16 the actual or perceived individual's race, color, ethnicity,
17 religion, national origin, gender identity or expression,
18 sexual orientation, English language proficiency, or mental
19 or physical disability. The definition of "profiling"
20 also includes any pretextual stop that is the basis for
21 discrimination.

22 The bill defines "law enforcement activities" to include
23 traffic, bicyclist, or pedestrian stops; actions during a
24 stop, including asking questions; frisks; consensual and
25 nonconsensual searches of an individual or any property;
26 seizing any property; removing occupants from a motor vehicle
27 during a traffic stop; issuing a citation; and making an
28 arrest.

29 The bill defines "pretextual stop" to mean a stop of a driver
30 of a motor vehicle, a bicyclist, or a pedestrian by an officer
31 if all of the following apply: the decision to make the stop
32 was the result of discrimination based upon profiling; the
33 stated reason for the stop is not in fact the real reason but
34 is instead a pretext to conceal the real reason for the stop;
35 and the real reason for the stop is to enable the officer to

1 inquire into subjects about which the officer has no reasonable
2 basis to inquire or to seek information for which the officer
3 does not possess independent evidence constituting probable
4 cause or reasonable suspicion.

5 PROFILING — PROHIBITION. The bill prohibits a peace
6 officer from profiling. However, the bill does not prevent
7 any of the following: a law enforcement agency's policy
8 allowing the use of information that has been provided by a
9 victim describing the personal identifying characteristics of
10 a perpetrator of a crime in order to seek out individuals who
11 match that description; a specific suspect description-based
12 identification; an individual's observed behavior linking
13 another individual to suspected unlawful activity that
14 establishes probable cause or reasonable suspicion that
15 criminal activity is afoot; or other trustworthy information or
16 circumstances, relevant to the locality and time frame linking
17 an individual to suspected unlawful activity that establishes
18 probable cause or a reasonable suspicion that criminal activity
19 is afoot.

20 DRIVER'S LICENSE AND NONOPERATOR'S IDENTIFICATION
21 REQUIREMENT. The bill requires the department of
22 transportation to encrypt the race, ethnicity, and English
23 language proficiency of the driver into a driver's license or
24 nonoperator's identification card.

25 COMMUNITY POLICING ADVISORY BOARD. The bill requires the
26 attorney general to establish a community policing advisory
27 board for the purpose of recognizing and promoting awareness of
28 profiling by law enforcement, providing advice in development
29 of best practices to prevent profiling, and monitoring
30 implementation of best practices in the field. In establishing
31 the board, the bill requires the attorney general to ensure
32 that the board is racially and ethnically diverse and gender
33 balanced. The bill specifies that the attorney general shall
34 also provide or arrange for the staff necessary to assist the
35 board.

1 The bill provides that the community policing advisory board
2 shall consist of 15 voting members and two ex officio nonvoting
3 members. The attorney general shall appoint the following
4 nine board members: four representatives from community
5 organizations historically associated with efforts to eliminate
6 racial discrimination, of whom one representative shall be at
7 least 16 years of age but not more than 24 years of age at the
8 time of appointment; three representatives from advocacy groups
9 that support individuals who have experienced discrimination
10 based on race, color, ethnicity, religion, national origin,
11 gender identity or expression, sexual orientation, immigration
12 or citizenship status, language, or mental or physical
13 disability status; and two clergy members who have significant
14 experience in addressing and reducing racial discrimination and
15 other biases.

16 The bill specifies that the following individuals shall
17 also serve on the community policing advisory board: the
18 attorney general or the attorney general's designee, the
19 director of the Iowa law enforcement academy, the state
20 public defender or the state public defender's designee, the
21 director of the Iowa civil rights commission, the president of
22 the board of directors of the Iowa police chiefs association
23 or the president's designee; and the president of the Iowa
24 state sheriffs' and deputies' association or the president's
25 designee.

26 The bill specifies that the board shall also include two
27 members of the general assembly who shall serve as ex officio,
28 nonvoting members, with one member appointed by the majority
29 leader of the senate and one member appointed by the speaker of
30 the house of representatives.

31 The initial term of board members appointed from the
32 community organizations shall be four years, and after the
33 initial term has been served, the appointments shall be for
34 a term of four years. The initial term of board members
35 appointed from the clergy or advocacy groups shall be two

1 years, and after the initial term has been served, the
2 appointments shall be for a term of four years.

3 The bill provides that the members of the board shall only
4 receive reimbursement for actual expenses for performance of
5 their official duties as members of the board.

6 The bill specifies that the board shall be subject to the
7 provisions of Code chapters 21 (open meetings) and 22 (open
8 records).

9 BOARD ACTIONS REQUIRED BY APRIL 1, 2017. The bill requires
10 the board to develop a standard notice form to be provided
11 to each individual stopped by an officer, when practicable,
12 informing the individual of the individual's right to file
13 a complaint with the Iowa civil rights commission if the
14 individual believes that the individual has been a victim of
15 profiling.

16 The bill provides that the board shall advise the attorney
17 general when developing rules for the collection, compilation,
18 and reporting of traffic, bicycle, and pedestrian stop data
19 to ensure the use of uniform reporting practices across all
20 reporting law enforcement agencies.

21 The bill requires the board to adopt rules pursuant to Code
22 chapter 17A.

23 BOARD ACTION REQUIRED BY JULY 1, 2017, AND EVERY YEAR
24 THEREAFTER. The bill provides that the board shall annually do
25 the following: evaluate and comment upon the data compiled and
26 reported to the attorney general by law enforcement agencies
27 and the analysis of the data by the division of criminal and
28 juvenile justice planning of the department of human rights;
29 assess the collection, compilation, and reporting of stop
30 data compiled by law enforcement agencies, assess the law
31 enforcement training requirement, and determine if these
32 requirements are effective; work in partnership with state and
33 local law enforcement agencies to review and analyze profiling
34 across geographic areas of the state; consult available
35 evidence-based research on intentional and implicit biases,

1 and the impact on law enforcement stop, search, and seizure
2 tactics; issue an annual report that provides the board's
3 analysis of the past and current status of profiling across
4 the state; and make policy recommendations for eliminating
5 profiling.

6 The bill also requires the board to hold at least three
7 annual public meetings to discuss profiling and potential
8 reforms to prevent profiling.

9 NOTICE ABOUT FILING PROFILING COMPLAINT. The bill requires
10 a law enforcement agency to require, when practicable, each
11 officer who makes a stop to provide to each individual stopped
12 a standard notice form, developed by the community policing
13 advisory board, that discloses the individual's right to file
14 a complaint with the Iowa civil rights commission if the
15 individual believes that profiling has occurred.

16 UNFAIR PROFILING PRACTICE. The bill provides that it
17 shall be an unfair discriminatory practice under the Iowa
18 civil rights Act, Code chapter 216, for a peace officer to
19 engage in profiling described in the bill. The bill also
20 specifies certain behaviors that do not constitute an unfair
21 discriminatory practice.

22 DATA COLLECTED, COMPILED, AND REPORTED BY A LAW ENFORCEMENT
23 AGENCY. The bill requires that each law enforcement agency
24 collect, compile, and report annually to the attorney general
25 the following information on a standardized form developed by
26 the attorney general for law enforcement activities related
27 to a traffic, bicycle, or pedestrian stop: the time, date,
28 location, and duration of the stop; the reason for the stop;
29 the results of the stop; the warning given or citation issued,
30 if applicable; the offense the individual was arrested for, if
31 applicable; the identifying characteristics of the individual
32 stopped, including perceived race, ethnicity, English language
33 proficiency, sex, and approximate age; and the actions taken
34 by the officer during the stop. The actions to be reported
35 include but are not limited to the following: whether the

1 officer asked for consent to search the person and whether
2 consent was provided; whether the officer searched the
3 individual or any property, and if a search was performed, the
4 basis for the search, the scope and duration of the search,
5 and the type of contraband, including moneys, or evidence
6 discovered in the search; whether the officer seized any
7 property, and a complete description of the property that was
8 seized and the basis for seizing the property; whether the
9 officer used physical force or physical force was used against
10 the officer, and a complete description of the extent force
11 was used; whether the search involved the use of a canine or
12 advanced technology; and any additional information which the
13 officer or law enforcement agency considers appropriate.

14 CITIZEN COMPLAINTS RECEIVED AND REPORTED BY A LAW
15 ENFORCEMENT AGENCY. The bill requires each law enforcement
16 agency to report annually to the attorney general the total
17 number of citizen complaints received by the law enforcement
18 agency alleging misconduct by an officer. The report shall be
19 disaggregated by race, color, ethnicity, religion, national
20 origin, gender identity or expression, sexual orientation,
21 English language proficiency, or mental or physical disability,
22 and by the result of the complaint.

23 DATA COMPILED BY THE ATTORNEY GENERAL. The bill requires the
24 attorney general, in consultation with the community policing
25 advisory board and the Iowa civil rights commission, and with
26 input from stakeholders including federal, state, and local
27 law enforcement agencies, local communities, researchers,
28 and civil rights organizations, to adopt rules pursuant to
29 Code chapter 17A for law enforcement agency collection and
30 compilation of law enforcement activities related to traffic,
31 bicycle, or pedestrian stops, and citizen complaints. The
32 rules adopted under the bill shall do the following: require
33 each law enforcement agency to collect and compile data as
34 required under the bill; require each law enforcement agency to
35 prominently publicize the compiled data on the law enforcement

1 agency's internet site; require each law enforcement agency to
2 maintain all data collected, compiled, and reported under the
3 bill for at least four years; and provide for the protection
4 and privacy of any personal identifying information about the
5 officer or the individual stopped that is contained in the
6 collected and compiled data.

7 The bill provides that a law enforcement agency shall not
8 grant access to personal identifying information contained
9 in the data collected by the law enforcement agency to any
10 individual except to a federal, state, local, or tribal
11 government employee or agent who requires access to such
12 information in order to fulfill the purposes of the bill.
13 However, the bill provides that a law enforcement agency
14 may permit a contractor or nongovernmental agent access to
15 personal identifying information that is contained in the data
16 collected, if the contractor or nongovernmental agent signs an
17 agreement which prohibits further disclosure of the personal
18 identifying information beyond disclosure to the contractor or
19 nongovernmental agent.

20 The bill requires the attorney general to in turn compile
21 the data collected from law enforcement agencies for analysis.
22 The bill further requires the attorney general to provide the
23 compiled data to the community policing advisory board, the
24 Iowa civil rights commission, and the division of criminal and
25 juvenile justice planning of the department of human rights,
26 and to any other agency, board, or department the attorney
27 general deems appropriate.

28 The bill specifies that the division of criminal and
29 juvenile justice planning of the department of human rights
30 shall analyze the data provided from the attorney general and
31 provide an analysis of the data in a statistical form to the
32 attorney general, community policing advisory board, and the
33 Iowa civil rights commission.

34 In consultation with the community policing advisory board,
35 the bill requires the attorney general to prescribe guidelines

1 recommending best practices to alleviate profiling, setting
2 comparative benchmarks consistent with best practices against
3 which collected and compiled data shall be monitored and
4 measured, while providing for the protection and the privacy of
5 the personal identifying information of individuals whose data
6 is collected and compiled.

7 The bill requires the attorney general to report law
8 enforcement agency specific data in statistical form on an
9 annual basis to the community policing advisory board, the Iowa
10 civil rights commission, and to the public, without revealing
11 personal identifying information. The public report shall be
12 accessible from a prominent place on the attorney general's
13 internet site.

14 USE OF DATA IN DISPARATE TREATMENT AND DISPARATE IMPACT
15 CASES. The bill specifies that data compiled pursuant to the
16 bill is admissible in individual and pattern and practice
17 disparate treatment profiling cases and in disparate impact
18 profiling cases under the Iowa civil rights Act.

19 TRAINING. The bill requires that each law enforcement
20 agency provide training to officers on issues related to
21 the prevention of profiling, data collection, and reporting
22 methods. Every officer in the state must participate in annual
23 training pursuant to the bill. The Iowa law enforcement
24 academy shall develop and disseminate training guidelines for
25 all officers consistent with the best practices guidelines
26 issued by the attorney general under the bill.

27 The training guidelines developed by the Iowa law
28 enforcement academy pursuant to the bill shall include all
29 of the following: an emphasis on officer understanding
30 and respect for diverse communities and the importance of
31 effective, noncombative methods of carrying out law enforcement
32 activities; instruction on diverse communities in order to
33 foster mutual respect and cooperation; an examination of the
34 patterns, practices, and protocols that cause profiling,
35 and the tools to prevent such actions; an examination

1 and identification of key indices and perspectives that
2 make up differences among residents in a local community;
3 instruction on implicit bias and consideration of the
4 negative impact of bias, whether intentional or implicit,
5 on effective law enforcement, including examination of how
6 historical perceptions of profiling have harmed community
7 relations; instruction on the perspectives of diverse local
8 constituency groups from experts on particular cultural and
9 law enforcement-community relations issues in a local area; a
10 presentation of the history and the role of the civil rights
11 movement and the impact on law enforcement; and instruction
12 about preventing profiling and each officer's specific
13 obligations to prevent, report, and respond to profiling by
14 fellow officers.

15 REPORTING PROFILING — RETALIATION — PENALTIES. The bill
16 provides that each officer has an obligation to prevent,
17 report, and respond to profiling, discrimination, or biased
18 practices by a fellow officer. The bill specifies that it
19 shall be an unlawful employment practice under the Iowa civil
20 rights Act, Code chapter 216, for an employer or the employees,
21 or other agents, to discriminate against an employee because of
22 the employee's opposition to profiling, or because the officer
23 made a charge, testified against, assisted, or participated in
24 any manner in an investigation, proceeding, or hearing related
25 to profiling.

26 The bill specifies that an officer or an employee of a
27 law enforcement agency who retaliates against an officer or
28 employee for making a charge, testifying against, assisting, or
29 participating in any manner in an investigation, proceeding, or
30 hearing related to profiling shall be subject to discipline,
31 including dismissal.

32 The bill prohibits retaliation against an officer or
33 employee who files a report of an occurrence of profiling
34 against an officer. A person who violates this provision
35 commits a simple misdemeanor.

S.F. 2267

1 STATUTORY REMEDIES. The bill provides that the remedies
2 authorized in the bill are not exclusive and do not foreclose
3 an individual from asserting any remedies the individual may
4 have based on the common law or other statutes.

5 STATE MANDATE. The bill may include a state mandate as
6 defined in Code section 25B.3. The bill makes inapplicable
7 Code section 25B.2, subsection 3, which would relieve a
8 political subdivision from complying with a state mandate if
9 funding for the cost of the state mandate is not provided or
10 specified. Therefore, political subdivisions are required to
11 comply with any state mandate included in the bill.

12 EFFECTIVE DATE. The bill takes effect on October 1, 2016.