

Senate Study Bill 1177 - Introduced

SENATE FILE _____
BY (PROPOSED COMMITTEE
ON JUDICIARY BILL BY
CHAIRPERSON ZAUN)

A BILL FOR

1 An Act relating to law enforcement profiling by standardizing
2 collection and centralizing the compilation and reporting
3 of officer stop and compliant data, providing for officer
4 training, creating a community policing advisory board,
5 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. Section 80B.11, subsection 1, paragraphs a and b,
2 Code 2017, are amended to read as follows:

3 a. Minimum entrance requirements, course of study,
4 attendance requirements, and equipment and facilities required
5 at approved law enforcement training schools. Minimum age
6 requirements for entrance to approved law enforcement training
7 schools shall be eighteen years of age. Minimum course of
8 study requirements shall include a separate domestic abuse
9 curriculum, which may include but is not limited to outside
10 speakers from domestic abuse shelters and crime victim
11 assistance organizations. Minimum course of study requirements
12 shall also include a sexual assault curriculum, and a separate
13 curriculum regarding the prevention of profiling as defined in
14 section 80G.2.

15 b. Minimum basic training requirements law enforcement
16 officers employed after July 1, 1968, must complete in order
17 to remain eligible for continued employment and the time
18 within which such basic training must be completed. Minimum
19 requirements shall mandate training devoted to the topic of
20 domestic abuse, and sexual assault, and the prevention of
21 profiling as defined in section 80G.2. The council shall
22 submit an annual report to the general assembly by January 15
23 of each year relating to the continuing education requirements
24 devoted to the topic of domestic abuse, and the prevention of
25 profiling as defined in section 80G.2, including the number of
26 hours required, the substance of the classes offered, and other
27 related matters.

28 Sec. 2. Section 80B.11, subsection 1, paragraph c,
29 subparagraph (2), Code 2017, is amended to read as follows:

30 (2) In-service training under this paragraph "c" shall
31 include the requirement that all law enforcement officers
32 complete a course on the prevention of profiling as defined in
33 section 80G.2, and a course on investigation, identification,
34 and reporting of public offenses based on the race, color,
35 religion, ancestry, national origin, political affiliation,

1 sex, sexual orientation, age, or disability of the victim. The
2 director shall consult with the civil rights commission, the
3 department of public safety, and the prosecuting attorneys
4 training coordinator in developing the requirements for this
5 course and may contract with outside providers for this course.

6 Sec. 3. NEW SECTION. 80G.1 Purpose — construction.

7 It is the purpose of this chapter to prohibit racial and
8 ethnic profiling in law enforcement, to foster trust and
9 cooperation with law enforcement in Iowa communities, and
10 to create a safer state for all Iowans, law enforcement and
11 citizens alike.

12 Sec. 4. NEW SECTION. 80G.2 Definitions.

13 As used in this chapter, unless the context otherwise
14 requires:

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

16 2. a. "Discriminatory pretextual stop" means a stop
17 involving disparate treatment by the officer or a stop
18 for which the person's race, color, ethnicity, religion,
19 or national origin was considered or relied upon or was a
20 motivating factor in the officer's decision to make the stop
21 or to take other action during the stop, including a request
22 to consent to a search.

23 b. It is not a discriminatory pretextual stop when an
24 officer bases the officer's decision to make a stop on a
25 specific suspect description-based identification that includes
26 in the suspect's identification one or more of the personal
27 characteristics or traits listed in subsection 4.

28 3. "Disparate treatment" means differential treatment of
29 a person on the basis of race, color, ethnicity, religion, or
30 national origin.

31 4. "Division of criminal and juvenile justice planning" means
32 the division of criminal and juvenile justice planning of the
33 department of human rights.

34 5. "Law enforcement activities" mean any of the following:
35 traffic, bicyclist, or pedestrian stops by an officer; and

1 actions during a stop, including asking questions, frisks,
2 consensual and nonconsensual searches of an individual or any
3 property, seizing any property, removing occupants from a motor
4 vehicle during a traffic stop, issuing a warning or citation,
5 and making an arrest. "*Law enforcement activities*" does not
6 include any of the following: road blocks, vehicle check
7 points, and security checks where every person seeking to enter
8 a venue or facility is subject to detention, questioning, or
9 a search of person or property, and responses to appeals for
10 service.

11 6. "*Officer*" means a peace officer, as defined in section
12 801.4 including while employed off-duty by a private employer
13 and in uniform, but not including a probation officer or a
14 parole officer.

15 7. "*Personal identifying information*" means a person's name,
16 address, or any other information that would allow a third
17 party to identify the person by name.

18 8. "*Pretextual stop*" means a stop by an officer of a driver
19 or passenger, a bicyclist, or a pedestrian for an alleged
20 violation of the law, to allow the officer to then question
21 and probe for information that might suggest the person
22 has committed some not apparent or yet-to-be identified law
23 violation. A stop shall be considered a pretextual stop under
24 the following circumstances:

25 a. When the race, color, ethnicity, religion, or national
26 origin of the person stopped was considered or relied upon
27 or was a motivating factor in making the decision to make a
28 racially discriminatory stop.

29 b. When the officer prolonged the stop beyond the amount
30 of time when the law enforcement tasks tied to the alleged
31 violation are or reasonably should have been completed.

32 9. "*Profiling*" means any of the following when an officer is
33 deciding to initiate law enforcement activities including the
34 use and scope of such activities:

35 a. Consideration or reliance upon actual or perceived race,

1 color, ethnicity, religion, or national origin.

2 b. Disparate treatment of a person.

3 c. Making or conducting a discriminatory pretextual stop.

4 10. "*Specific suspect description-based identification*" means
5 a reasonably detailed physical description of the personal
6 identifying characteristics of a potential suspect, including
7 but not limited to age, sex, ethnicity, race, or English
8 language proficiency.

9 11. "*Stop*" means the detention of a person by an officer,
10 including a temporary detention.

11 Sec. 5. NEW SECTION. 80G.3 Profiling — prohibition —
12 allowed policy and actions.

13 1. An officer shall not engage in profiling in the course of
14 performing law enforcement activities.

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

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

21 b. An action by an officer that relies upon any of the
22 following:

23 (1) Personal identifying information or a specific suspect
24 description-based identification. However, a specific suspect
25 description-based identification only provides probable
26 cause or reasonable suspicion to stop a person who reasonably
27 resembles the person described in that identification, and does
28 not allow an officer to stop a person merely because the person
29 is of the same race, color, ethnicity, religion, or national
30 origin as the suspect.

31 (2) A person's observed behavior linking that person or
32 another person to suspected unlawful activity that establishes
33 probable cause or a reasonable suspicion that criminal activity
34 is afoot.

35 (3) Other trustworthy information or circumstances,

1 relevant to the locality and time frame, linking a person to
2 suspected unlawful activity that establishes probable cause or
3 a reasonable suspicion that criminal activity is afoot.

4 *c.* A traffic stop when directed at the traffic-related
5 mission, namely, checking a driver's license, vehicle
6 registration, insurance or financial responsibility,
7 outstanding warrants, and issuing citations or preparing
8 warnings. However, the authority for a traffic stop ends
9 when the officer's tasks tied to the traffic infraction that
10 is the basis for the stop are or reasonably should have been
11 completed.

12 Sec. 6. NEW SECTION. **80G.4 Community policing advisory**
13 **board — establishment and role.**

14 1. The attorney general shall establish a community
15 policing advisory board for the purpose of recognizing and
16 promoting awareness of profiling by law enforcement, reviewing
17 data collected under this chapter and the analysis thereof, and
18 facilitating discussion of best practices to prevent profiling.
19 In establishing the board, the attorney general shall ensure
20 that the board is racially and ethnically diverse and gender
21 balanced. The attorney general shall also provide or arrange
22 for necessary staff to assist the board.

23 2. The board shall consist of sixteen voting members and
24 four ex officio, nonvoting members.

25 *a.* The attorney general shall appoint nine voting members
26 nominated from the following described organizations or groups
27 or who hold the following described positions:

28 (1) Four representatives from community organizations
29 historically associated with efforts to eliminate racial
30 discrimination that work with victims of racial and ethnic
31 profiling, of whom one representative shall be at least sixteen
32 years of age but not more than twenty-four years of age at the
33 time of appointment.

34 (2) Three representatives from advocacy groups that support
35 persons who have experienced discrimination based on race,

1 color, ethnicity, religion, or national origin.

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

5 *b.* The following seven voting members shall serve on the
6 board:

7 (1) The attorney general or the attorney general's
8 designee.

9 (2) The director of the department of public safety or the
10 director's designee.

11 (3) The director of the Iowa law enforcement academy.

12 (4) The state public defender or the state public defender's
13 designee.

14 (5) The director of the Iowa civil rights commission.

15 (6) The president of the board of directors of the Iowa
16 police chiefs association, or the president's designee.

17 (7) The president of the Iowa state sheriffs' and deputies'
18 association or the president's designee.

19 *c.* The board shall include four members of the general
20 assembly who shall serve as ex officio, nonvoting members. The
21 legislative members shall be appointed as follows:

22 (1) One member of the senate appointed by the majority
23 leader of senate.

24 (2) One member of the senate appointed by the minority
25 leader of the senate.

26 (3) One member of the house of representatives appointed by
27 the speaker of the house of representatives.

28 (4) One member of the house of representatives appointed by
29 the minority leader of the house of representatives.

30 3. Notwithstanding section 7E.6, nonlegislative members
31 shall only receive reimbursement for actual expenses for
32 performance of their official duties as members of the board.
33 Members of the general assembly shall not receive a per diem
34 but shall receive reimbursement for necessary travel and actual
35 expenses incurred in the performance of their official duties.

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

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

7 *b.* The initial term of a member appointed pursuant to
8 subsection 2, paragraph "a", subparagraph (2) or (3), shall
9 be two years, and after the initial term has been served, the
10 appointment shall be for a term of four years.

11 6. Each year the board shall elect two voting members as
12 co-chairpersons.

13 7. The board shall do all of the following by April 1, 2019:

14 *a.* Approve rules prior to their adoption by the department
15 of justice pursuant to chapter 17A.

16 *b.* Develop a standard notice form to be provided to a person
17 stopped by an officer, when practicable, informing the person
18 of the person's right to file a complaint with the Iowa civil
19 rights commission if the person believes that the person has
20 been a victim of profiling.

21 *c.* Advise the department of justice regarding the
22 department's development of guidelines for the collection,
23 compilation, and reporting of traffic, bicycle, and pedestrian
24 stop data in order to ensure uniform reporting practices across
25 all reporting law enforcement agencies.

26 8. Each year beginning July 1, 2020, the board shall do all
27 of the following:

28 *a.* Evaluate and comment upon the collection, compilation,
29 and reporting of traffic, bicycle, and pedestrian stop data by
30 law enforcement agencies reported to the department of justice.

31 *b.* Review the analysis of such data by the division of
32 criminal and juvenile justice planning and consider the
33 effectiveness of law enforcement training under section 80G.8,
34 including whether the training could be improved.

35 *c.* Work in partnership with state and local law enforcement

1 agencies to review and analyze profiling across geographic
2 areas of this state.

3 *d.* Consult available evidence-based research on intentional
4 and implicit biases, and their impact on law enforcement stop,
5 search, and seizure tactics.

6 *e.* (1) Issue an annual report that provides the board's
7 analysis of the board activities required by paragraphs "a"
8 through "d", makes detailed findings on the past and current
9 status of profiling, and makes policy recommendations for
10 eliminating profiling and other discriminatory practices.

11 (2) The report shall be retained and made available to the
12 public by posting the report on the attorney general's internet
13 site. The report shall first be issued by February 1, 2021,
14 and by February 1 every year thereafter.

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

17 *f.* Hold at least three annual public meetings to discuss
18 profiling and potential reforms to prevent profiling. The
19 board shall provide notice to the public of the location of
20 each public meeting at least sixty days before the date of the
21 meeting.

22 9. The board shall be subject to the provisions of chapters
23 21 and 22.

24 **Sec. 7. NEW SECTION. 80G.5 Notice of right to file**
25 **complaint with the civil rights commission.**

26 A law enforcement agency shall require, when practicable,
27 an officer who makes a stop to provide to the person stopped
28 the standard notice form developed by the board informing the
29 person of the person's right to file a complaint with the civil
30 rights commission if the person believes that the person has
31 been a victim of profiling.

32 **Sec. 8. NEW SECTION. 80G.6 Data collection and reporting.**

33 1. Each state and local law enforcement agency shall
34 annually submit to the department of justice, no later than
35 December 31 of each year, the agency's current policies that

1 address profiling, and the agency shall post and maintain the
2 current policy on the internet site of the agency.

3 2. Each state and local law enforcement agency shall
4 collect and compile data on every traffic, bicycle, and
5 pedestrian stop conducted by the officers of the agency during
6 the calendar year, and shall submit a report annually to the
7 department of justice. The following information shall be
8 collected, compiled, and reported on each stop, including stops
9 that involve questioning and driver's license and vehicle
10 registration checks but do not result in a written citation or
11 written warning:

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

13 b. The reason for the stop.

14 c. Whether a driver's license or vehicle registration check
15 was run.

16 d. Whether an oral or written warning was given or a
17 citation issued.

18 e. The offense the person was arrested for, if applicable.

19 f. The following identifying characteristics of the person
20 stopped including perceived race, ethnicity, English language
21 proficiency, sex, and approximate age. The identification of
22 these characteristics shall be based principally on information
23 digitally accessible from the person's driver's license or
24 nonoperator's identification card and only secondarily on the
25 observation and perception of the officer making the stop. The
26 officer shall not be required to inquire about race, ethnicity,
27 and English language proficiency of the person stopped. The
28 identifying characteristics of a passenger in a motor vehicle
29 shall also be reported if the stop involved both the passenger
30 and a search reported under paragraph "g".

31 g. The following actions taken by an officer during the
32 stop:

33 (1) Whether the officer asked for consent to search the
34 person or vehicle and whether consent was provided.

35 (2) Whether the officer searched the person or any property,

1 and if a search was performed, the basis for the search.

2 (3) Whether the officer seized any property, and a
3 description of the property seized and the basis for seizing
4 the property.

5 (4) Whether the officer used physical force or physical
6 force was used against the officer.

7 *h.* Other information which the officer or law enforcement
8 agency considers appropriate.

9 3. In consultation with law enforcement agencies, the
10 division of criminal and juvenile justice planning, and
11 the board, the attorney general shall develop a uniform
12 standardized form for each law enforcement agency to use in
13 collecting, compiling, and reporting the information described
14 in subsection 2.

15 4. Each state law enforcement agency and a local law
16 enforcement agency in the state with jurisdiction over fifty
17 thousand residents shall submit the agency's first report on
18 or before January 1, 2020. A local law enforcement agency
19 in the state with jurisdiction over twenty-five thousand
20 residents but not more than fifty thousand residents shall
21 submit the agency's first report on or before January 1, 2021.
22 The remaining local law enforcement agencies shall submit the
23 agency's first report on or before January 1, 2022.

24 5. Except as otherwise provided in this chapter, a
25 law enforcement agency shall not grant access to personal
26 identifying information contained in the data collected by
27 the law enforcement agency to any person except to a federal,
28 state, local, or tribal government employee or agent who
29 requires access to such information in order to collect,
30 compile, and report the data.

31 6. A law enforcement agency may permit a contractor
32 or nongovernmental agent access to personal identifying
33 information that is contained in the data collected, if the
34 contractor or nongovernmental agent signs an agreement which
35 prohibits access of the personal identifying information beyond

1 access to the contractor or nongovernmental agent, and if the
2 contractor or nongovernmental agent assures the law enforcement
3 agency in the agreement that adequate security measures have
4 been implemented to prevent unauthorized access to the personal
5 identifying information.

6 Sec. 9. NEW SECTION. 80G.7 Department of justice adoption
7 of rules for data collection — analysis of data by division of
8 criminal and juvenile justice planning.

9 1. In consultation with the board and the Iowa civil rights
10 commission, and with input from stakeholders including federal,
11 state, and local law enforcement agencies, local communities,
12 researchers, and civil rights organizations, the department
13 of justice shall adopt rules pursuant to chapter 17A for law
14 enforcement agency collection, compilation, and reporting
15 of law enforcement data related to traffic, bicycle, and
16 pedestrian stops. The rules adopted under this section must
17 do the following:

18 a. Require each law enforcement agency to collect and
19 compile data as required by section 80G.6, and report annually
20 to the department of justice on the agency's traffic, bicycle,
21 and pedestrian stops on a standardized form developed by the
22 attorney general.

23 b. Require each law enforcement agency to prominently
24 publicize the compiled data reported to the attorney general
25 pursuant to section 80G.6, on at least a quarterly basis, on
26 the law enforcement agency's internet site, or make such data
27 available electronically within thirty days upon request if the
28 law enforcement agency lacks an internet site.

29 c. Require each law enforcement agency and the division of
30 criminal and juvenile justice planning to maintain all data
31 collected, compiled, and reported pursuant to section 80G.6 for
32 at least fifteen years.

33 d. Provide for the protection and privacy of any personal
34 identifying information about the officer or the person stopped
35 that is contained in the data by removing any such personal

1 identifying information prior to publicizing the data pursuant
2 to paragraph "b" and subsection 2.

3 2. The division of criminal and juvenile justice planning
4 shall compile all data reported to the department of justice
5 pursuant to this chapter, and shall analyze annually the data
6 in a timely manner, and provide the analysis of the data, along
7 with the compiled data, to the department of justice, the
8 board, the Iowa civil rights commission, and the public. The
9 report shall be accessible to the public from a prominent place
10 on the internet sites of the department of human rights, the
11 department of justice, and the Iowa civil rights commission.
12 The report shall include disaggregated statistical data for
13 each reporting law enforcement agency, and, at a minimum, each
14 reporting law enforcement agency's total results for each data
15 collection criterion for the calendar year.

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. 10. NEW SECTION. 80G.8 Training.

22 1. The director of the Iowa law enforcement academy,
23 subject to the approval of the Iowa law enforcement academy
24 council, shall develop and disseminate training guidelines
25 and best practices to reduce and eliminate profiling. In
26 developing the training guidelines and best practices, the
27 director shall consult with the department of justice, the
28 board, the Iowa civil rights commission, and the division of
29 criminal and juvenile justice planning, with opportunity for
30 input from federal, state, and local law enforcement agencies,
31 civil rights organizations, and persons having an interest and
32 expertise in the field of cultural awareness and diversity.

33 2. Each law enforcement agency shall provide, and every
34 officer shall participate in training on issues related to
35 profiling, prevention of profiling, data collection, reporting

1 methods, and best practices at least every other year.

2 Sec. 11. NEW SECTION. **80G.9 Retaining and producing stop**
3 **data, reporting profiling, and prohibiting retaliation.**

4 1. The division of criminal and juvenile justice planning
5 and each law enforcement agency shall retain and, upon request,
6 shall produce personal identifying stop data for individual
7 officers for use by the law enforcement agency and the Iowa
8 civil service commission for internal investigation and
9 disciplinary proceedings, for use by the Iowa civil rights
10 commission when investigating or adjudicating a charge
11 of discrimination under section 216.10A, and for use by a
12 complainant upon receipt of a right to sue letter from the
13 commission. Such personal identifying stop data for an
14 individual officer and the division of criminal and juvenile
15 justice planning's analysis of that data are admissible in an
16 adjudication of a claim of unfair or discriminatory practice
17 under section 216.10A.

18 2. An officer is obligated to prevent, report, and respond
19 to profiling by a fellow officer. An officer or employee of a
20 law enforcement agency who opposes profiling or makes a charge,
21 testifies against, assists, or participates in any manner in an
22 investigation, proceeding, or hearing related to profiling is
23 protected against retaliation by section 216.11.

24 3. An officer or an employee of a law enforcement agency
25 who retaliates against an officer or employee for opposing
26 profiling or making a charge, testifying against, assisting, or
27 participating in any manner in an investigation, proceeding, or
28 hearing related to profiling shall be subjected to discipline,
29 including dismissal.

30 Sec. 12. NEW SECTION. **80G.10 Statutory remedies not**
31 **exclusive.**

32 The remedies authorized in this chapter are not exclusive
33 and do not foreclose a person from asserting any remedies the
34 person may have based on the common law or other statutes.

35 Sec. 13. Section 216.2, subsection 15, Code 2017, is amended

1 to read as follows:

2 15. *“Unfair practice”* or *“discriminatory practice”* means
3 those practices specified as unfair or discriminatory in
4 sections 216.6, 216.6A, 216.7, 216.8, 216.8A, 216.9, 216.10,
5 216.10A, 216.11, and 216.11A.

6 Sec. 14. Section 216.6, subsection 1, Code 2017, is amended
7 by adding the following new paragraph:

8 NEW PARAGRAPH. e. Employer or the employees or agents
9 thereof to discriminate against an employee because the
10 employee makes a charge, testifies against, assists, or
11 participates in any manner in an investigation, proceeding, or
12 hearing related to profiling pursuant to chapter 80G.

13 Sec. 15. NEW SECTION. 216.10A **Profiling — unfair or**
14 **discriminatory practice.**

15 1. It shall be an unfair or discriminatory practice under
16 section 216.10A for a peace officer to engage in profiling as
17 defined in chapter 80G.

18 2. The data compiled pursuant to chapter 80G is admissible
19 in pattern and practice disparate treatment profiling cases,
20 in disparate impact profiling cases, or individual cases under
21 chapter 216.

22 3. The law enforcement activities described in section
23 80G.3 do not constitute an unfair or discriminatory practice.

24 Sec. 16. NEW SECTION. 321.182A **Application for driver’s**
25 **license or nonoperator’s identification card — race, ethnicity,**
26 **and primary language.**

27 1. The department shall request a person who applies for a
28 driver’s license or nonoperator’s identification card or for
29 renewal of a driver’s license or nonoperator’s identification
30 card to disclose and specify the person’s race, ethnicity, and
31 primary language, each of which may be disclosed and specified
32 at the person’s discretion.

33 2. Prior to January 15, 2020, and prior to January 15 of
34 each year thereafter, the department shall submit a report
35 to the general assembly detailing the number of driver’s

1 license and nonoperator's identification card holders who have
2 disclosed and specified a race, ethnicity, or primary language
3 pursuant to subsection 1.

4 3. The department shall electronically maintain as part of
5 a person's record the race, ethnicity, and primary language
6 information obtained by the department, but shall not include
7 such information on the face or in any machine-readable
8 portion of the person's driver's license or nonoperator's
9 identification card. Race, ethnicity, and primary language
10 information collected by the department shall be considered
11 confidential information and is not a public record or
12 otherwise subject to disclosure under chapter 22. The
13 department shall not release race, ethnicity, and primary
14 language information collected under this section except to any
15 of the following:

16 a. The attorney general for use in the administration of
17 chapter 80G.

18 b. The community policing advisory board established in
19 chapter 80G.

20 c. The Iowa civil rights commission.

21 d. The state court administrator for use in carrying out the
22 administrator's functions as permitted by law.

23 e. The division of criminal and juvenile justice planning of
24 the department of human rights for use in research activities
25 and in producing statistical reports and analysis as permitted
26 by law.

27 4. For the collection of race, ethnicity, and primary
28 language information pursuant to this section, the department
29 shall follow, to the extent practicable, the race and ethnicity
30 categories, descriptors, or standards utilized by the United
31 States census bureau.

32 Sec. 17. IMPLEMENTATION OF ACT. Section 25B.2, subsection
33 3, shall not apply to this Act.

34 Sec. 18. EFFECTIVE DATE. This Act takes effect October 1,
35 2018.

1

EXPLANATION

2

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

3

4 This bill relates to law enforcement profiling by
5 standardizing collection and centralizing the compilation
6 and reporting of officer stop and compliant data, providing
7 for officer training, creating a community policing advisory
8 board, and providing for penalties and remedies, and includes
9 effective date provisions.

10 LAW ENFORCEMENT OFFICER TRAINING. The bill provides that
11 the minimum course study requirements, minimum basic training
12 requirements, and in-service training requirements established
13 by the Iowa law enforcement academy shall include a course
14 relating to the prevention of profiling.

15 DEFINITIONS. The bill defines "officer" to mean a peace
16 officer, as defined in Code section 801.4, including while
17 employed off-duty by a private employer and in uniform, but
18 does not include a probation or parole officer.

19 The bill defines "law enforcement activities" to mean
20 traffic, bicyclist, or pedestrian stops by an officer; and
21 actions during a stop, including asking questions, frisks,
22 consensual and nonconsensual searches of an individual or any
23 property, seizing any property, removing occupants from a motor
24 vehicle during a traffic stop, issuing a warning or citation,
25 and making an arrest. "Law enforcement activities" do not
26 include road blocks, vehicle check points, and security checks
27 where every person seeking to enter a venue or facility is
28 subject to detention, questioning, or a search of a person or
29 property, and responses to appeals for service.

30 The bill defines "profiling" to mean a stop by an officer
31 of a driver or passenger, a bicyclist, or a pedestrian for an
32 alleged violation of the law, to allow the officer to then
33 question and probe for information that might suggest the
34 person has committed some not apparent or yet to be identified
35 law violation. A stop shall be considered a pretextual stop

1 under the following circumstances: when the race, color,
2 ethnicity, religion, or national origin of the person stopped
3 was considered or relied upon or a motivating factor in making
4 the decision to make a racially discriminatory stop; or when
5 the officer prolonged the stop beyond the amount of time when
6 the law enforcement tasks tied to the alleged violation are or
7 reasonably should have been completed.

8 The bill defines "disparate treatment" to mean differential
9 treatment of a person on the basis of race, color, ethnicity,
10 religion, or national origin.

11 The bill defines "pretextual stop" to mean a stop by an
12 officer of a driver or passenger, a bicyclist, or a pedestrian
13 for an alleged violation of the law, to allow the officer to
14 then question and probe for information that might suggest the
15 person had committed some not apparent or yet to be identified
16 law violation.

17 The bill defines a "discriminatory pretextual stop" to
18 mean a stop involving disparate treatment by the officer or a
19 stop for which the person's race, color, ethnicity, religion,
20 or national origin was considered or relied upon or was a
21 motivating factor in the officer's decision to make the stop
22 or to take other action during the stop, including a request
23 to consent to a search. It is not a discriminatory pretextual
24 stop when an officer bases the officer's decision to make a
25 stop on a specific suspect description-based identification
26 that includes in the suspect's identification one or more
27 of the personal characteristics or traits of race, color,
28 ethnicity, religion, or national origin. However, a specific
29 suspect description-based identification only provides probable
30 cause or reasonable suspicion to stop a person who reasonably
31 resembles the person described in that identification, and does
32 not allow an officer to stop a person merely because the person
33 is of the same race, color, ethnicity, religion, or national
34 origin as the suspect.

35 PROFILING. The bill prohibits an officer from engaging

1 in profiling in the course of performing law enforcement
2 activities. It is not profiling under the following
3 circumstances: when a law enforcement agency's policy allowing
4 the use of information that has been provided by a victim
5 describing the personal identifying characteristics of an
6 alleged perpetrator; an action by an officer that relies
7 upon personal identifying information, a specific suspect
8 description-based identification, a person's observed behavior,
9 and other trustworthy information, except such information
10 only provides probable cause or reasonable suspicion to stop
11 a person who reasonably resembles the person described in
12 that identification; and a traffic stop when directed at the
13 traffic-related mission, namely, checking driver's license,
14 vehicle registration, insurance or financial responsibility,
15 outstanding warrants, and issuing citations or preparing
16 warnings, except the authority for a traffic stop ends when
17 the officer's tasks tied to the traffic infraction that is
18 the basis for the stop are or reasonably should have been
19 completed.

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

31 The bill provides that the community policing advisory
32 board shall consist of 16 voting members and four ex officio,
33 nonvoting members. The attorney general shall appoint the
34 following nine board members: four representatives from
35 community organizations historically associated with efforts

1 to eliminate racial discrimination, of whom one representative
2 shall be at least 16 years of age but not more than 24 years
3 of age at the time of appointment; three representatives from
4 advocacy groups that support individuals who have experienced
5 discrimination based on race, color, ethnicity, religion, or
6 national origin; and two clergy members who have significant
7 experience in addressing and reducing racial discrimination and
8 other biases.

9 The bill specifies that the following individuals shall also
10 serve on the community policing advisory board: the attorney
11 general or the attorney general's designee, the director of
12 the department of public safety, the director of the Iowa law
13 enforcement academy, the state public defender or the state
14 public defender's designee, the director of the Iowa civil
15 rights commission, the president of the board of directors of
16 the Iowa police chiefs association or the president's designee;
17 and the president of the Iowa state sheriffs' and deputies'
18 association or the president's designee.

19 The bill specifies that the board shall also include four
20 members of the general assembly who shall serve as ex officio,
21 nonvoting members, with one member each appointed by the
22 majority leader of the senate, the minority leader of the
23 senate, the speaker of the house of representatives, and the
24 minority leader of the house of representatives.

25 The board members generally serve staggered four-year terms.

26 The bill provides that the members of the board shall only
27 receive reimbursement for actual expenses for performance of
28 their official duties as members of the board.

29 The bill specifies that the board shall be subject to the
30 provisions of Code chapters 21 (open meetings) and 22 (open
31 records).

32 BOARD ACTIONS REQUIRED BY APRIL 1, 2019. The bill requires
33 the board to develop a standard notice form to be provided
34 to each individual stopped by an officer, when practicable,
35 informing the individual of the individual's right to file

1 a complaint with the Iowa civil rights commission if the
2 individual believes that the individual has been a victim of
3 profiling.

4 The bill provides that the board shall advise the attorney
5 general when developing rules for the collection, compilation,
6 and reporting of traffic, bicycle, and pedestrian stop data
7 to ensure the use of uniform reporting practices across all
8 reporting law enforcement agencies.

9 The bill requires the board to approve rules prior to their
10 adoption by the department of justice pursuant to Code chapter
11 17A.

12 BOARD ACTION REQUIRED BY JULY 1, 2020, AND EVERY YEAR
13 THEREAFTER. The bill provides that the board shall annually do
14 the following: evaluate and comment upon the data compiled and
15 reported to the attorney general by law enforcement agencies
16 and the analysis of the data by the division of criminal and
17 juvenile justice planning of the department of human rights;
18 assess the collection, compilation, and reporting of stop
19 data compiled by law enforcement agencies, assess the law
20 enforcement training requirement, and determine if these
21 requirements are effective; work in partnership with state and
22 local law enforcement agencies to review and analyze profiling
23 across geographic areas of the state; consult available
24 evidence-based research on intentional and implicit biases,
25 and the impact on law enforcement stop, search, and seizure
26 tactics; issue an annual report that provides the board's
27 analysis of the past and current status of profiling across
28 the state; and make policy recommendations for eliminating
29 profiling.

30 The bill also requires the board to hold at least three
31 annual public meetings to discuss profiling and potential
32 reforms to prevent profiling.

33 NOTICE ABOUT FILING PROFILING COMPLAINT. The bill requires
34 a law enforcement agency to require, when practicable, each
35 officer who makes a stop to provide to each individual stopped

1 a standard notice form, developed by the community policing
2 advisory board, that discloses the individual's right to file
3 a complaint with the Iowa civil rights commission if the
4 individual believes that profiling has occurred.

5 DATA COLLECTED, COMPILED, AND REPORTED BY A LAW ENFORCEMENT
6 AGENCY. The bill requires that each state and local law
7 enforcement agency shall annually submit to the department of
8 justice, no later than December 31 of each year, the agency's
9 current policies that address profiling, and the agency shall
10 post and maintain the current policy on the internet site of
11 the agency. The bill requires that each law enforcement agency
12 collect, compile, and report annually to the department of
13 justice the following information related to stops including
14 stops that involve questioning, driver's license and vehicle
15 registration checks that do not result in a citation or
16 warning: the time, date, location, and duration of the stop;
17 the reason for the stop; the results of the stop; the warning
18 given or citation issued, if applicable; the offense the
19 individual was arrested for, if applicable; the identifying
20 characteristics of the individual stopped, including perceived
21 race, ethnicity, English language proficiency, sex, and
22 approximate age; and the actions taken by the officer during
23 the stop. The actions to be reported include but are not
24 limited to the following: whether the officer asked for
25 consent to search the person and whether consent was provided;
26 whether the officer searched the individual or any property,
27 and if a search was performed, the basis for the search;
28 whether the officer seized any property, and a description
29 of the property that was seized and the basis for seizing
30 the property; whether the officer used physical force or
31 physical force was used against the officer; and any additional
32 information which the officer or law enforcement agency
33 considers appropriate.

34 The bill provides that the attorney general, in consultation
35 with the division of criminal and juvenile justice of the

1 department of human rights, the board, and law enforcement
2 agencies, shall develop a uniform standardized form for each
3 law enforcement agency to use in collecting, compiling, and
4 reporting the information required to be reported.

5 The bill provides that each state law enforcement agency
6 and the local law enforcement agencies in the state with
7 jurisdiction over 50,000 residents shall submit the agency's
8 first report on or before December 31, 2019. The local law
9 enforcement agencies in the state with jurisdiction over 25,000
10 residents but not more than 50,000 residents shall submit the
11 agency's first report on or before December 31, 2020. The
12 remaining local law enforcement agencies shall submit the
13 agency's first report on or before December 31, 2021.

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

27 DATA COMPILED BY THE DIVISION OF CRIMINAL AND JUVENILE
28 JUSTICE PLANNING. The bill requires the attorney general, in
29 consultation with the community policing advisory board and the
30 Iowa civil rights commission, and with input from stakeholders
31 including federal, state, and local law enforcement agencies,
32 local communities, researchers, and civil rights organizations,
33 to adopt rules pursuant to Code chapter 17A for law enforcement
34 agency collection and compilation of law enforcement activities
35 related to traffic, bicycle, or pedestrian stops, and citizen

1 complaints. The rules adopted under the bill shall do the
2 following: require each law enforcement agency to collect
3 and compile data as required under the bill; require each law
4 enforcement agency to prominently publicize the compiled data
5 on the law enforcement agency's internet site; require each law
6 enforcement agency to maintain all data collected, compiled,
7 and reported under the bill for at least 15 years; and provide
8 for the protection and privacy of any personal identifying
9 information about the officer or the individual stopped that is
10 contained in the collected and compiled data.

11 The bill requires the division of criminal and juvenile
12 justice planning of the department of human rights to in turn
13 compile the data collected from law enforcement agencies for
14 analysis. The bill specifies that the division shall analyze
15 the data provided. The bill further requires the division
16 to provide the compiled data and analysis to the community
17 policing advisory board, the Iowa civil rights commission, the
18 department of justice, and the public.

19 TRAINING GUIDELINES. The bill provides that the director
20 of the Iowa law enforcement academy, subject to the approval
21 of the Iowa law enforcement academy council, shall develop
22 and disseminate training guidelines and best practices to
23 reduce and eliminate profiling. In developing the training
24 guidelines and best practices, the director shall consult with
25 the department of justice, the community policing advisory
26 board, the Iowa civil rights commission, and the division of
27 criminal and juvenile justice planning, with opportunity for
28 input from federal, state, and local law enforcement agencies,
29 civil rights organizations, and persons having an interest and
30 expertise in the field of cultural awareness and diversity.

31 STATUTORY REMEDIES. The bill provides that the remedies
32 authorized in the bill are not exclusive and do not foreclose
33 an individual from asserting any remedies the individual may
34 have based on the common law or other statutes.

35 UNFAIR EMPLOYMENT PRACTICES — RETALIATION — PENALTIES.

1 The bill provides that it shall be an unfair discriminatory
2 practice under the Iowa civil rights Act, Code chapter 216,
3 for a peace officer to engage in profiling described in the
4 bill. The bill also specifies certain behaviors that do
5 not constitute an unfair discriminatory practice. The bill
6 provides that it is an unfair or discriminatory practice for
7 an employer or the employees of the employer to discriminate
8 against another employee because the employee makes a charge,
9 testifies against, assists, or participates in any manner in
10 an investigation, proceeding, or hearing related to profiling.
11 The bill specifies that it shall be an unlawful employment
12 practice under the Iowa civil rights Act, Code chapter 216, for
13 an employer or the employees, or other agents, to discriminate
14 against an employee because of the employee's opposition to
15 profiling, or because the officer made a charge, testified
16 against, assisted, or participated in any manner in an
17 investigation, proceeding, or hearing related to profiling.

18 The bill specifies that an officer or an employee of a
19 law enforcement agency who retaliates against an officer or
20 employee for making a charge, testifying against, assisting, or
21 participating in any manner in an investigation, proceeding, or
22 hearing related to profiling shall be subject to discipline,
23 including dismissal.

24 USE OF DATA IN DISPARATE TREATMENT AND DISPARATE IMPACT
25 CASES. The bill specifies that data compiled pursuant to the
26 bill is admissible in individual and pattern and practice
27 disparate treatment profiling cases and in disparate impact
28 profiling cases under the Iowa civil rights Act.

29 DRIVER'S LICENSE AND NONOPERATOR'S IDENTIFICATION. The bill
30 provides that the department of transportation shall request
31 a person who applies for a driver's license or nonoperator's
32 identification card or for renewal of a driver's license or
33 nonoperator's identification card to disclose and specify the
34 person's race, ethnicity, and primary language, each of which
35 may be disclosed and specified at the person's discretion.

1 Under the bill, prior to January 15, 2020, and prior
2 to January 15 of each year thereafter, the department of
3 transportation shall submit a report to the general assembly
4 detailing the number of driver's license and nonoperator's
5 identification card holders who have disclosed and specified a
6 race, ethnicity, or primary language.

7 The bill provides that the department shall electronically
8 maintain as part of a person's record the race, ethnicity,
9 and primary language information obtained by the department,
10 but shall not include such information on the face or in any
11 machine-readable portion of the person's driver's license or
12 nonoperator's identification card.

13 The department of transportation shall not release race,
14 ethnicity, and primary language information collected under
15 this Code section except to any of the following: the
16 department of justice, the community policing advisory
17 board, the Iowa civil rights commission, the state court
18 administrator, and the division of criminal and juvenile
19 justice planning of the department of human rights for use in
20 research activities and in producing statistical reports and
21 analysis as permitted by law.

22 STATE MANDATE. The bill may include a state mandate as
23 defined in Code section 25B.3. The bill makes inapplicable
24 Code section 25B.2, subsection 3, which would relieve a
25 political subdivision from complying with a state mandate if
26 funding for the cost of the state mandate is not provided or
27 specified. Therefore, political subdivisions are required to
28 comply with any state mandate included in the bill.

29 EFFECTIVE DATE. The bill takes effect on October 1, 2018.