

Senate Study Bill 3141 - Introduced

SENATE/HOUSE FILE _____
BY (PROPOSED GOVERNOR BILL)

A BILL FOR

1 An Act relating to discrimination and disparate treatment by
2 local entities including law enforcement.
3 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:

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

2 It is the purpose of this chapter to prohibit disparate
3 treatment in law enforcement, including racial and ethnic
4 profiling, to foster trust and cooperation with law enforcement
5 in Iowa communities and to create a safer state for all Iowans.

6 Sec. 2. NEW SECTION. 80I.2 Definitions.

7 As used in this chapter, unless the context otherwise
8 requires:

9 1. "*Board*" means the justice and community policing advisory
10 board established in section 216A.132.

11 2. "*Disparate treatment*" means differential treatment of a
12 person on the basis of race, skin color, or national origin.

13 3. "*Law enforcement agency*" means any agency, department, or
14 division of a municipal corporation, political subdivision, or
15 other unit of local government of this state, and any agency,
16 department, or division of state government, having as its
17 primary function the prevention and detection of crime and the
18 enforcement of the criminal laws of this state.

19 4. "*Law enforcement officer*" means the same as defined in
20 section 80B.3.

21 5. "*Motor vehicle stop*" means any stop of a motor vehicle,
22 except for a stop of a motor truck, truck tractor, semitrailer,
23 trailer, or towed vehicle at a state weighing station.

24 Sec. 3. NEW SECTION. 80I.3 Disparate treatment prohibited.

25 A state or local law enforcement officer shall not engage in
26 the disparate treatment of an individual who has been detained
27 or whose motor vehicle has been stopped by a law enforcement
28 officer.

29 Sec. 4. NEW SECTION. 80I.4 Data collection and reporting.

30 1. Each state and local law enforcement agency shall collect
31 and compile the following information on every motor vehicle
32 stop conducted by a law enforcement officer during a calendar
33 year, and shall submit an annual report, no later than November
34 1, to the division of criminal and juvenile justice planning of
35 the department of human rights:

- 1 *a.* The time, date, and location of the motor vehicle stop.
- 2 *b.* The nature of the alleged law violation that resulted in
- 3 the motor vehicle stop.
- 4 *c.* Whether an arrest was made at the time of the motor
- 5 vehicle stop.
- 6 *d.* Whether a search was conducted as a result of the motor
- 7 vehicle stop.
- 8 *e.* Whether an oral or written warning was given or a
- 9 citation was issued.
- 10 *f.* The offense the person was arrested for, if applicable.
- 11 *g.* The person's race and ethnicity.
- 12 *h.* Any other information which the law enforcement officer
- 13 or law enforcement agency considers appropriate.

14 2. In consultation with law enforcement agencies, the
15 department of public safety, and the division of criminal
16 and juvenile justice planning of the department of human
17 rights, the board shall develop a uniform manner for each law
18 enforcement agency to report the information described in
19 subsection 1.

20 Sec. 5. NEW SECTION. **80I.5 Data analysis.**

21 The division of criminal and juvenile justice planning of
22 the department of human rights shall compile all data reported
23 pursuant to section 80I.4, analyze the data in a timely manner,
24 and provide an analysis of the data along with the compiled
25 data to the board no later than December 1 of each year. The
26 report shall be accessible to the public from a prominent place
27 on the board's website.

28 Sec. 6. NEW SECTION. **80I.6 Investigations.**

29 1. A law enforcement agency shall conduct a formal
30 administrative investigation of all complaints, as defined in
31 section 80F.1, alleging violations of section 80I.3 by the
32 agency's law enforcement officers.

33 2. The attorney general shall investigate an alleged
34 violation of section 80I.3 that is also a violation of section
35 27B.3 pursuant to a complaint filed under section 27B.4.

1 Sec. 7. Section 216A.3, subsection 2, paragraph a, Code
2 2022, is amended to read as follows:

3 a. The voting members shall consist of nine voting members
4 selected by each of the permanent commissions within the
5 department, and two voting members, appointed by the governor.
6 For purposes of this paragraph "a", "permanent commissions"
7 means the commission of Latino affairs, commission on the
8 status of women, commission of persons with disabilities,
9 commission on community action agencies, commission of deaf
10 services, justice and community policing advisory board,
11 commission on the status of African Americans, commission of
12 Asian and Pacific Islander affairs, and commission of Native
13 American affairs. The term of office for voting members is
14 four years.

15 Sec. 8. Section 216A.131, subsection 2, Code 2022, is
16 amended to read as follows:

17 2. "Board" means the justice and community policing advisory
18 board.

19 Sec. 9. Section 216A.132, subsection 1, Code 2022, is
20 amended by striking the subsection and inserting in lieu
21 thereof the following:

22 1. A justice and community policing advisory board is
23 established consisting of thirty-two members who shall all
24 reside in the state.

25 a. The governor shall appoint thirteen voting members
26 each for a four-year term beginning and ending as provided in
27 section 69.19 and subject to confirmation by the senate as
28 follows:

29 (1) A sheriff who is a member of the Iowa state sheriffs'
30 and deputies' association.

31 (2) A chief of police who is a member of the Iowa police
32 chiefs association.

33 (3) A peace officer who is a member of the Iowa peace
34 officers association.

35 (4) A peace officer who is a member of the fraternal order

1 of police.

2 (5) A peace officer who is a member of the Iowa state police
3 association.

4 (6) A representative from the Iowa-Nebraska national
5 association for the advancement of colored people.

6 (7) A representative from the American civil liberties
7 union of Iowa.

8 (8) A representative from the Iowa coalition for collective
9 change.

10 (9) One person who was formerly under juvenile court or
11 correctional supervision.

12 (10) A representative from the office of the state public
13 defender.

14 (11) A representative from the Iowa county attorneys
15 association.

16 (12) Two persons representing the general public who are
17 not employed in any law enforcement, judicial, or corrections
18 capacity including one person who is at least fifteen years of
19 age but less than twenty-five years of age.

20 *b.* The following shall serve on the board as ex officio,
21 nonvoting members:

22 (1) The chairperson of the commission on the status of
23 African Americans or its designee.

24 (2) The chairperson of the commission of Latino affairs or
25 its designee.

26 (3) The chairperson of the commission of Asian and Pacific
27 Islander affairs or its designee.

28 (4) The chairperson of the commission of Native American
29 affairs or its designee.

30 (5) The director of the department of human services or its
31 designee.

32 (6) The director of the department of public health or its
33 designee.

34 (7) The commissioner of the department of public safety or
35 its designee.

1 (8) The director of the Iowa law enforcement academy or its
2 designee.

3 (9) The director of the department of corrections or its
4 designee.

5 (10) The chairperson of the board of parole or its designee.

6 (11) The attorney general or its designee.

7 (12) The director of the governor's office of drug control
8 policy or its designee.

9 (13) One member representing the judicial district
10 departments of correctional services designated by a majority
11 of the directors of the judicial district departments of
12 correctional services.

13 (14) The chief justice of the supreme court shall designate
14 the following:

15 (a) One member who is a district judge.

16 (b) One member who is either a district associate judge or
17 associate juvenile judge.

18 (15) The chairperson and ranking member of the senate
19 committee on judiciary shall be ex officio, nonvoting members.
20 In alternating two-year terms, beginning and ending as provided
21 in section 69.16B, the chairperson and ranking member of the
22 house committee on judiciary or of the house committee on
23 public safety shall be ex officio, nonvoting members, with the
24 chairperson and ranking member of the house committee on public
25 safety serving during the term beginning in January 2023.

26 Sec. 10. Section 216A.133, subsection 3, paragraph o, Code
27 2022, is amended by adding the following new subparagraph:

28 NEW SUBPARAGRAPH. (9) Potential disparity in law
29 enforcement activities and the delivery of law enforcement
30 services.

31 Sec. 11. Section 216A.133, subsection 3, Code 2022, is
32 amended by adding the following new paragraphs:

33 NEW PARAGRAPH. s. Studying and making recommendations for
34 eliminating disparity in law enforcement activities and the
35 delivery of law enforcement services.

1 NEW PARAGRAPH. *t.* Recommending to the department the
2 adoption of rules pursuant to chapter 17A as it deems necessary
3 for the collection, compilation, and reporting of motor vehicle
4 stop data pursuant to section 80I.4.

5 Sec. 12. Section 216A.135, subsection 2, Code 2022, is
6 amended by adding the following new paragraph:

7 NEW PARAGRAPH. *g.* An assessment and analysis of the
8 collection, compilation, and reporting of motor vehicle
9 stop data compiled by law enforcement agencies, including an
10 analysis of disparate treatment based on race and ethnicity
11 across geographic areas of the state, and the past and current
12 status of racial profiling across the state.

13 Sec. 13. NEW SECTION. **321.182A Application for driver's**
14 **license or nonoperator's identification card — race and**
15 **ethnicity.**

16 1. The department shall request that a person who applies
17 for a driver's license or nonoperator's identification
18 card or for renewal of a driver's license or nonoperator's
19 identification card disclose and specify the person's race and
20 ethnicity, each of which may be disclosed and specified to the
21 department at the person's discretion.

22 2. Prior to January 15, 2024, and prior to January 15 of
23 each year thereafter, the department shall submit a report
24 to the general assembly detailing the number of driver's
25 license and nonoperator's identification card holders who
26 have disclosed and specified a race and ethnicity pursuant to
27 subsection 1.

28 3. The department shall electronically maintain as part
29 of a person's record, and in the machine-readable portion of
30 the driver's license or nonoperator's identification card,
31 race and ethnicity information obtained by the department, but
32 shall not include such information on the face of the person's
33 driver's license or nonoperator's identification card. Race
34 and ethnicity information collected by the department shall
35 be accessible by an officer or employee of a law enforcement

1 agency for use in carrying out the agency's functions as
2 permitted by law, but shall be considered confidential
3 information and is not a public record or otherwise subject
4 to disclosure under chapter 22. The department shall not
5 otherwise release race and ethnicity information collected
6 under this section except to any of the following:

7 a. The justice and community policing advisory board
8 established in section 216A.132.

9 b. The state court administrator for use in carrying out the
10 administrator's functions as permitted by law.

11 c. The division of criminal and juvenile justice planning of
12 the department of human rights for use in research activities
13 and in producing statistical reports and analysis as permitted
14 by law.

15 4. For the collection of race and ethnicity information
16 pursuant to this section, the department shall follow, to
17 the extent practicable, the race and ethnicity categories,
18 descriptors, and standards utilized by the United States census
19 bureau.

20 5. The department may adopt rules to administer this
21 section.

22 EXPLANATION

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

25 This bill relates to discrimination and disparate treatment
26 in law enforcement.

27 DISPARATE TREATMENT BY LAW ENFORCEMENT. The bill creates
28 a new Code chapter concerning disparate treatment by law
29 enforcement. The bill provides that it is the purpose of
30 the Code chapter to prohibit disparate treatment by law
31 enforcement, including racial and ethnic profiling, to foster
32 trust and cooperation with law enforcement in Iowa communities
33 and to create a safer state for all Iowans. "Disparate
34 treatment" is defined as the differential treatment of a person
35 on the basis of race, skin color, or national origin. The

1 bill also defines "law enforcement agency", "law enforcement
2 officer", and "motor vehicle stop".

3 The bill provides that a state or local law enforcement
4 officer shall not engage in the disparate treatment of an
5 individual who has been detained or whose motor vehicle has
6 been stopped by a law enforcement officer.

7 The bill directs each state and local law enforcement
8 agency to collect and compile data on every motor vehicle stop
9 conducted by a law enforcement officer of the agency during a
10 calendar year, and to submit an annual report to the division
11 of criminal and juvenile justice planning of the department of
12 human rights. The following information shall be collected,
13 compiled, and reported when a law enforcement officer makes
14 a motor vehicle stop: the time, date, and location of the
15 motor vehicle stop; the nature of the alleged law violation
16 that resulted in the motor vehicle stop; whether an arrest was
17 made at the time of the motor vehicle stop; whether a search
18 was conducted as a result of the motor vehicle stop; whether
19 an oral or written warning was given or a citation issued; the
20 offense the person was arrested for, if applicable; the race
21 and ethnicity of the person stopped; and any other information
22 which the officer or law enforcement agency considers
23 appropriate. The justice and community policing board
24 established in the bill, in consultation with law enforcement
25 agencies, the department of public safety, and the division
26 of criminal and juvenile justice planning of the department
27 of human rights shall develop a uniform manner for each law
28 enforcement agency to report the information. The division of
29 criminal and juvenile justice planning of the department of
30 human rights shall compile all data reported, analyze the data
31 in a timely manner, and provide an analysis of the data along
32 with the compiled data to the board by December 1 of each year.
33 The report shall be accessible to the public from a prominent
34 place on the board's website.

35 The bill provides that a law enforcement agency shall

1 conduct a formal administrative investigation of all
2 violations concerning disparate treatment by law enforcement
3 administratively, and that the attorney general shall
4 investigate alleged violations of the bill that are also
5 violations of Code section 27B.3 pursuant to a complaint
6 filed under Code section 27B.4 (local entity discrimination
7 complaints).

8 JUSTICE AND COMMUNITY POLICING ADVISORY BOARD. The bill
9 changes the name of the justice advisory board created in
10 Code section 216A.132 to the justice and community policing
11 advisory board, and increases board membership from 28 to 32
12 members. The bill provides for the appointment of members of
13 the advisory board by the governor as well as other ex officio,
14 nonvoting members.

15 The bill adds the following duties to the justice and
16 community policing advisory board: providing the general
17 assembly with an analysis and recommendations of current
18 criminal code provisions and proposed legislation regarding
19 potential disparity in law enforcement activities and the
20 delivery of law enforcement services; studying and making
21 recommendations for eliminating disparity in law enforcement
22 activities and the delivery of law enforcement services; and
23 recommending to the department of human services the adoption
24 of rules pursuant to Code chapter 17A for the collection,
25 compilation, and reporting of motor vehicle stop data. The
26 board is directed to include in its three-year criminal
27 and juvenile justice plan an assessment and analysis of the
28 collection, compilation, and reporting of motor vehicle stop
29 data including an analysis of disparate treatment based on race
30 and ethnicity.

31 DRIVER'S LICENSE AND NONOPERATOR IDENTIFICATION CARD
32 APPLICATIONS — RACE AND ETHNICITY. The bill provides that
33 a person applying for a driver's license or a nonoperator's
34 identification card will be requested by the department of
35 transportation to specify the person's race and ethnicity.

1 The bill requires the department to make an annual report
2 to the general assembly regarding the number of persons who
3 have disclosed and specified a race and ethnicity. Race
4 and ethnicity information shall only be released to a law
5 enforcement officer, an employee of a law enforcement agency,
6 the justice and community policing advisory board, the state
7 court administrator, and the division of criminal and juvenile
8 justice planning of the department of human rights.