

A SUMMARY OF HOUSE BILL 4927 AS INTRODUCED 6-7-01

The bill would create a new act, the “Michigan Racial Profiling and Report Statistics Act,” to define and prohibit racial profiling. The bill would also:

- prohibit the detention of someone for noncriminal reasons;
- create and require the use of traffic stop reporting forms every time a motorist were stopped by a law enforcement officer;
- require local law enforcement agencies to keep traffic stop forms and make them available to the public;
- require local law enforcement agencies to forward traffic stop data quarterly to the Department of Civil Rights for at least three years;
- create complaint forms and require that they be made available to motorists who alleged a violation of the proposed act;
- require law enforcement agencies to investigate racial profiling complaints;
- allow law enforcement officers who received a substantial number of racial profiling complaints to be assigned to racial sensitivity training;
- establish a matching grant program to enable local law enforcement agencies to carry out the bill’s provisions; and
- allow civil actions for appropriate injunctive relief or damages.

Definition of “racial profiling.” The bill would define “racial profiling” to mean “the detention or other disparate treatment of an individual on the basis of the racial or ethnic status of that individual.”

Prohibition against racial profiling. The bill would prohibit, in the absence of a specific report [of criminal activity], the use of an individual’s race or ethnicity as a factor in determining the existence of probable cause to place the individual in custody or to arrest the individual. Nor could a person’s race or ethnicity be a factor in constituting reasonable suspicion that an offense had been or was being committed so as to justify the detention of an individual or the investigatory stopping of a motor vehicle.

In response to a specific report of criminal activity, an individual's race or ethnicity could not be the sole factor in determining the existence of probable cause to place the individual in custody or to arrest the individual.

The bill would prohibit the detention of an individual based on any noncriminal factor or combination of noncriminal factors, and would prohibit law enforcement officers from stopping, detaining, or searching an individual if that action were motivated only by race, color, ethnicity, age, or gender.

Traffic stop reporting forms. The Department of Civil Rights would have to create a traffic stop reporting form that would have to include the following required information:

- The traffic stop infraction alleged to have been committed that led to the stop, the time of the stop, the geographical location in which the stop occurred, and the total duration of the stop;
- Identifying characteristics of the driver stopped, including the race, gender, ethnicity, and approximate age of the driver and any passengers in the vehicle and the place of registration of the vehicle;
- Whether the vehicle or the driver or passenger, or both, were searched as a result of the stop, any alleged criminal behavior by the driver or a passenger that justified the search, and whether consent was requested for the search;
- Any items seized, including contraband or money;
- Whether any oral or written warning or citation was issued or an arrest was made as a result of the stop or search and the justification for the arrest;
- Whether the officers making the stop engaged in the use of force against the driver or passenger(s) for any reason;
- Whether forfeiture proceedings were subsequently instituted against the vehicle as a result of the stop;
- Whether any injuries resulted from the stop; and
- Whether the circumstances surrounding the stop were the subject of any investigation and the results of that investigation.

The bill would require a law enforcement officer responsible for stopping a motorist to fill out or electronically enter a traffic stop reporting form during or immediately following each motor vehicle stop, regardless of whether a citation were issued. Submitting a form without the above required information would be a violation of the proposed act, and the bill would prohibit law enforcement officers from reporting or recording any misleading information related to the actual or perceived race, ethnicity, age, or gender of an individual.

Traffic stop reporting forms would have to be maintained at the local law enforcement agency and be available for public review or copying during regular business hours.

The bill would require the local law enforcement agency to collect the data from the forms for at least three years after the proposed act took effect and submit a report at the end of each calendar quarter to the Department of Civil Rights on the traffic stops reporting forms for that quarter.

Department of Civil Rights report and determinations. The bill would require the Department of Civil Rights to issue an annual report based on its review of the traffic stop information received from local law enforcement agencies. At the end of three years after the proposed law took effect, the department would be required to determine whether a local law enforcement agency would have to continue to collect data from the traffic stop reporting forms.

Racial profiling complaint forms. The bill would require the Department of Civil Rights to create and provide a complaint form that would have to be made available to each motorist who alleged a violation of the bill as the result of a stop by a law enforcement officer. The form would have to include an addressed, stamped envelope to the headquarters of the law enforcement agency and the Department of Civil Rights.

The bill would prohibit a law enforcement officer from discouraging an individual from filing a complaint and would require a law enforcement officer to avoid any action that might constitute intimidation, coercion, or threatened or actual retaliation against an individual to discourage or prevent the individual from filing a complaint.

Investigations. The bill would require law enforcement agencies to conduct appropriate investigations of each complaint of racial profiling they received, including, if necessary, an interview with each individual involved in the incident. Law enforcement agencies also would be required to file a report of the investigation with the Department of Civil Rights, including any video or audiotapes of the incident.

The bill would require that a complaint, and a record of the disposition or finding of any investigation or review, be placed in the personnel file of each officer involved.

Community liaison officers. The bill would require each law enforcement agency to designate an officer as its community liaison on racial profiling issues. The officer would have to meet regularly with members of community groups that might be potentially affected by racial profiling.

Racial sensitivity training. The Commission on Law Enforcement Standards Act requires the Commission on Law Enforcement Standards to promulgate rules to establish law enforcement officer minimum standards of physical, educational, mental, and moral fitness, as well as minimum courses of study, attendance, requirements, and instructional hours required at approved police training schools (MCL 28.609). Under the bill, a law enforcement officer who received a “substantial” number of racial profiling complaints as determined by the Department of Civil Rights could be assigned to further or additional racial sensitivity training from the training program described in the Commission on Law Enforcement Standards Act.

Departmental duties. In addition to creating and providing traffic stop reporting forms and racial profiling complaint forms, the Department of Civil Rights would promulgate rules to implement and administer the proposed act.

Grant program. The bill would establish a grant program in the Department of State Police to assist local law enforcement agencies in carrying out the bill's provisions, including buying vehicle cameras, diversity training, and data collection expenses. A grant would require a 50 percent match from the local unit of government. The bill would require the legislature to appropriate sufficient funds to implement the bill.

Violations. A person who alleged a violation of the proposed act could bring a civil action for appropriate injunctive relief or damages, or both. (The bill would define "damages" to mean "compensation for injury or loss caused by a violation of [the proposed] act, including reasonable attorney fees.) An action commenced under the bill could be brought in the circuit court for the county where the alleged violation occurred or for the county where the person resided.

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■This analysis was prepared by nonpartisan House staff for use by House members in their deliberations, and does not constitute an official statement of legislative intent.