

# HOUSE BILL No. 4927

June 7, 2001, Introduced by Reps. Thomas, McConico, Kilpatrick, Frank, Murphy, Drolet, Woronchak, Clark, Schauer, Allen, Woodward, Bovin, Jacobs, Bogardus, Waters, Williams, Kolb, Adamini, Lipsey, Daniels, Switalski, Dennis, Hardman, Garza, Scranton, Reeves, DeWeese, Rivet, Whitmer, Clarke, Jamnick, Phillips, Gielegem and Lemmons and referred to the Committee on Civil Law and the Judiciary.

A bill to define and prohibit racial profiling; to prescribe the powers and duties of certain state and local officials; to require training in racial sensitivity under certain conditions; to establish a grant program and provide appropriations; and to prescribe penalties and certain remedies for the effects of racial profiling incidents.

**THE PEOPLE OF THE STATE OF MICHIGAN ENACT:**

1       Sec. 1. This act shall be known and may be cited as the  
2 "Michigan racial profiling and report statistics act".

3       Sec. 2. As used in this act:

4       (a) "Department" means the department of civil rights.

5       (b) "Racial profiling" means the detention or other dis-  
6 parate treatment of an individual on the basis of the racial or  
7 ethnic status of that individual.

1           Sec. 3. (1) In the absence of a specific report, race or  
2 ethnicity of an individual shall not be a factor in determining  
3 the existence of probable cause to place in custody or arrest an  
4 individual or in constituting a reasonable suspicion that an  
5 offense has been or is being committed so as to justify the  
6 detention of an individual or the investigatory stop of a motor  
7 vehicle.

8           (2) In response to a specific report of criminal activity,  
9 race or ethnicity of an individual shall not be the sole factor  
10 in determining the existence of probable cause to place in cus-  
11 tody or arrest an individual.

12          Sec. 4. (1) The detention of an individual based on any  
13 noncriminal factor or combination of noncriminal factors is  
14 prohibited.

15          (2) A law enforcement officer shall not stop, detain, or  
16 search an individual if that action is motivated only by race,  
17 color, ethnicity, age, or gender.

18          Sec. 5. (1) A traffic stop reporting form created and pro-  
19 vided by the department shall be filled out or electronically  
20 entered during or immediately following each motor vehicle stop  
21 by the law enforcement officer responsible for the stop, regard-  
22 less of whether a citation was issued. Submitting a form without  
23 the required information described in section 8 is a violation of  
24 this act.

25          (2) The forms shall be maintained at the local law enforce-  
26 ment agency and are available for public review or copying during  
27 regular business hours. The local law enforcement agency shall

1 collect the data from the forms for a period of not less than 3  
2 years after the effective date of this act and shall submit a  
3 report at the end of each calendar quarter to the department on  
4 the traffic stop reporting forms for that quarter. The depart-  
5 ment shall issue an annual report based on its review of the  
6 information received. At the end of the 3-year period, the  
7 department shall make a determination based on its review of data  
8 received from a law enforcement agency during the 3-year period  
9 whether the law enforcement agency is required to continue to  
10 collect the data from the forms required under this act.

11 (3) A law enforcement officer shall not report or record any  
12 misleading information related to the actual or perceived race,  
13 ethnicity, age, or gender of an individual.

14 Sec. 6. (1) A complaint form created and provided by the  
15 department shall be made available to each motorist who alleges a  
16 violation of this act as the result of a stop by a law enforce-  
17 ment officer. The form shall include an addressed, stamped  
18 envelope to the headquarters of the law enforcement agency and  
19 the department.

20 (2) A law enforcement officer shall not discourage an indi-  
21 vidual from filing a complaint and shall avoid any action that  
22 may constitute intimidation, coercion, or threatened or actual  
23 retaliation against an individual to discourage or prevent them  
24 from filing a complaint.

25 (3) The law enforcement agency shall conduct an appropriate  
26 investigation of each complaint of racial profiling received,  
27 including, if necessary, an interview with each individual

1 involved in the incident and shall file a report of the  
2 investigation with the department including any video or audio  
3 tapes of the incident.

4 (4) A complaint, and a record of the disposition or finding  
5 of any investigation or review, shall be placed in the personnel  
6 file of each officer involved.

7 Sec. 7. (1) Each law enforcement agency shall designate an  
8 officer as its community liaison on racial profiling issues.

9 (2) This community liaison officer shall meet regularly with  
10 members of groups within the community that may be potentially  
11 affected by racial profiling.

12 Sec. 8. A traffic stop reporting form created by the  
13 department under section 5 shall include the following required  
14 information:

15 (a) The traffic stop infraction alleged to have been commit-  
16 ted that led to the stop, the time of the stop, the geographical  
17 location in which the stop occurred, and the total duration of  
18 the stop.

19 (b) Identifying characteristics of the driver stopped,  
20 including the race, gender, ethnicity, and approximate age of the  
21 driver and any passengers in the vehicle and the place of regis-  
22 tration of the vehicle.

23 (c) Whether a search was instituted of the vehicle or the  
24 driver or passengers in the vehicle, or both, as a result of the  
25 stop, any alleged criminal behavior by the driver or a passenger  
26 in the vehicle that justified the search, and whether consent was  
27 requested for the search.

1 (d) Any items seized, including contraband or money.

2 (e) Whether any oral or written warning or citation was  
3 issued or an arrest was made as a result of the stop or search  
4 and the justification for the arrest.

5 (f) Whether the officers making the stop engaged in the use  
6 of force against the driver, passenger, or passengers for any  
7 reason.

8 (g) Whether forfeiture proceedings were subsequently insti-  
9 tuted against the vehicle as a result of the stop.

10 (h) Whether any injuries resulted from the stop.

11 (i) Whether the circumstances surrounding the stop were the  
12 subject of any investigation, and the results of that  
13 investigation.

14 Sec. 9. A law enforcement officer who receives a substan-  
15 tial number of racial profiling complaints as determined by the  
16 department may be assigned to further or additional racial sensi-  
17 tivity training from the training program described in the com-  
18 mission on law enforcement standards act, 1965 PA 203, MCL 28.601  
19 to 28.616.

20 Sec. 10. The department shall promulgate rules to implement  
21 and administer this act pursuant to the administrative procedures  
22 act of 1969, 1969 PA 306, MCL 24.201 to 24.328.

23 Sec. 11. (1) A grant program is established within the  
24 department of state police to assist local law enforcement agen-  
25 cies in carrying out the provisions of this act including the  
26 purchase of vehicle cameras, diversity training, and data

1 collection expenses. A grant requires a 50% match from the local  
2 unit of government.

3 (2) The legislature shall appropriate funds sufficient to  
4 implement this section.

5 Sec. 12. (1) A person who alleges a violation of this act  
6 may bring a civil action for appropriate injunctive relief or  
7 damages, or both.

8 (2) An action commenced under subsection (1) may be brought  
9 in the circuit court for the county where the alleged violation  
10 occurred or for the county where the person resides.

11 (3) As used in subsection (1), "damages" means compensation  
12 for injury or loss caused by a violation of this act, including  
13 reasonable attorney fees.