

# SENATE BILL No. 87

January 28, 2003, Introduced by Senator THOMAS and referred to the Committee on 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 disparate  
6 treatment of an individual on the basis of the racial or ethnic  
7 status of that individual.

8       Sec. 3. (1) In the absence of a specific report, race or

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

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

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

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

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

24 (2) The forms shall be maintained at the local law  
25 enforcement agency and are available for public review or copying  
26 during regular business hours. The local law enforcement agency  
27 shall collect the data from the forms for a period of not less

1 than 3 years after the effective date of this act and shall  
2 submit a report at the end of each calendar quarter to the  
3 department on the traffic stop reporting forms for that quarter.  
4 The department shall issue an annual report based on its review  
5 of the information received. At the end of the 3-year period,  
6 the department shall make a determination based on its review of  
7 data received from a law enforcement agency during the 3-year  
8 period whether the law enforcement agency is required to continue  
9 to collect the data from the forms required under this act.

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

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

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

24 (3) The law enforcement agency shall conduct an appropriate  
25 investigation of each complaint of racial profiling received,  
26 including, if necessary, an interview with each individual  
27 involved in the incident and shall file a report of the

1 investigation with the department including any video or audio  
2 tapes of the incident.

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

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

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

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

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

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

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

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

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

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

7 (g) Whether forfeiture proceedings were subsequently  
8 instituted against the vehicle as a result of the stop.

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

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

13 Sec. 9. A law enforcement officer who receives a  
14 substantial number of racial profiling complaints as determined  
15 by the department may be assigned to further or additional racial  
16 sensitivity training from the training program described in the  
17 commission on law enforcement standards act, 1965 PA 203,  
18 MCL 28.601 to 28.616.

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

22 Sec. 11. (1) A grant program is established within the  
23 department of state police to assist local law enforcement  
24 agencies in carrying out the provisions of this act including the  
25 purchase of vehicle cameras, diversity training, and data  
26 collection expenses. A grant requires a 50% match from the local  
27 unit of government.

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

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

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

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