



Rep. André Thapedi

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1 AMENDMENT TO HOUSE BILL 229

2 AMENDMENT NO. \_\_\_\_\_. Amend House Bill 229 by replacing  
3 everything after the enacting clause with the following:

4 "Section 1. Short title. This Act may be cited as the  
5 Eliminate Racial Profiling Act.

6 Section 5. Definitions. As used in this Act:

7 "Covered program" means any program or activity funded in  
8 whole or in part with funds made available under:

9 (1) the Edward Byrne Memorial Justice Assistance Grant  
10 Program under part E of title I of the federal Omnibus  
11 Crime Control and Safe Streets Act of 1968 (42 U.S.C. 3750  
12 et seq.); and

13 (2) the "Cops on the Beat" program under part Q of  
14 title I of the federal Omnibus Crime Control and Safe  
15 Streets Act of 1968 (42 U.S.C. 3796dd et seq.), except that  
16 no program, project, or other activity specified in Section

1           1701(b)(13) of that part shall be a covered program under  
2           this paragraph.

3           "Governmental body" means any department, agency, special  
4           purpose district, or other instrumentality of State or local  
5           government.

6           "Hit rate" means the percentage of stops and searches in  
7           which a law enforcement officer finds drugs, a gun, or other  
8           contraband that leads to an arrest. The hit rate is calculated  
9           by dividing the total number of searches by the number of  
10          searches that yield contraband. The hit rate is complementary  
11          to the rate of false stops.

12          "Law enforcement agency" means any State or local public  
13          agency engaged in the prevention, detection, or investigation  
14          of violations of criminal laws.

15          "Law enforcement agent" means any State or local official  
16          responsible for enforcing criminal laws, including police  
17          officers and other agents of a law enforcement agency.

18          "Prevailing party" means a person:

19               (1) who obtains some of his or her requested relief  
20               through a judicial judgment in his or her favor;

21               (2) who obtains some of his or her requested relief  
22               through any settlement agreement approved by the court; or

23               (3) whose pursuit of a non-frivolous claim was a  
24               catalyst for a unilateral change in position by the  
25               opposing party relative to the relief sought.

26          "Racial profiling" means the practice of a law enforcement

1 agent or agency relying, to any degree, on actual or perceived  
2 race, ethnicity, national origin, religion, gender, gender  
3 identity, or sexual orientation in selecting which individual  
4 to subject to routine or spontaneous investigatory activities  
5 or in deciding upon the scope and substance of law enforcement  
6 activity following the initial investigatory procedure, except  
7 when there is trustworthy information, relevant to the locality  
8 and time frame, that links a person with a particular  
9 characteristic described in this paragraph to an identified  
10 criminal incident or scheme.

11 "Routine or spontaneous investigatory activities" means  
12 the following activities by a law enforcement agent:

- 13 (1) interviews;
- 14 (2) traffic stops;
- 15 (3) pedestrian stops;
- 16 (4) frisks and other types of body searches;
- 17 (5) consensual or nonconsensual searches of the  
18 persons, property, or possessions including vehicles, of  
19 individuals using any form of public or private  
20 transportation, including motorists and pedestrians;
- 21 (6) data collection and analysis, assessments, and  
22 predicated investigations; or
- 23 (7) any other types of law enforcement encounters  
24 compiled for or by the Department of State Police and the  
25 Racial Profiling Prevention and Data Oversight Board under  
26 the Racial Profiling Prevention and Data Oversight Act.

1 "Reasonable request" means all requests for information,  
2 except for those that:

3 (1) are immaterial to the investigation;

4 (2) would result in the unnecessary disclosure of  
5 personal information; or

6 (3) would place a severe burden on the resources of the  
7 law enforcement agency given its size.

8 "Unit of local government" means:

9 (1) any municipal, county, township, town, village, or  
10 other general purpose political subdivision of this State;

11 (2) any law enforcement district or jurisdiction that:

12 (A) is established under applicable State law; and

13 (B) has the authority to, in a manner independent  
14 of other State entities, establish a budget and impose  
15 taxes.

16 Section 10. Racial profiling prohibition. No law  
17 enforcement agent or law enforcement agency shall engage in  
18 racial profiling.

19 Section 15. Enforcement.

20 (a) The State or an individual injured by racial profiling,  
21 may enforce Section 10 of this Act in a civil action for  
22 declaratory or injunctive relief, filed in a State court of  
23 competent jurisdiction.

24 (b) In any action brought under this Act, relief may be

1 obtained against:

2 (1) any governmental body that employed any law  
3 enforcement agent who engaged in racial profiling;

4 (2) any agent of a governmental body who engaged in  
5 racial profiling; and

6 (3) any person with supervisory authority over any law  
7 enforcement agent who engaged in racial profiling.

8 (c) Proof that the routine or spontaneous investigatory  
9 activities of law enforcement agents in a jurisdiction have had  
10 a disparate impact on individuals with a particular racial  
11 profiling characteristic shall constitute prima facie evidence  
12 of a violation of this Act.

13 (d) Upon motion, a court shall award reasonable attorney's  
14 fees and costs, including expert witness fees and other  
15 litigation expenses, to a plaintiff who is a prevailing party  
16 in any action brought (1) under subsection (b) of this Section;  
17 or (2) to enforce a right arising under the Illinois  
18 Constitution. In awarding reasonable attorney's fees, the  
19 court shall consider the degree to which the relief obtained  
20 relates to the relief sought.

21 (e) For purposes of this Act, the State of Illinois waives  
22 sovereign immunity.

23 Section 20. Policies to eliminate racial profiling.

24 (a) Law enforcement agencies shall:

25 (1) maintain adequate policies and procedures designed

1 to eliminate racial profiling; and

2 (2) cease existing practices that permit racial  
3 profiling.

4 (b) The policies and procedures described in paragraph (1)  
5 of subsection (a) shall include:

6 (1) a prohibition on racial profiling;

7 (2) training on racial profiling issues as part of law  
8 enforcement training;

9 (3) the collection of data under rules adopted under  
10 Section 45 of this Act;

11 (4) procedures for receiving, investigating, and  
12 responding meaningfully to complaints alleging racial  
13 profiling by law enforcement agents; and

14 (5) any other policies and procedures the Attorney  
15 General determines to be necessary to eliminate racial  
16 profiling by law enforcement agencies.

17 Section 25. Policies required for grants.

18 (a) An application by a unit of local government or a law  
19 enforcement agency for funding under a covered program shall  
20 include a certification that the unit of local government or  
21 law enforcement agency, and any law enforcement agency to which  
22 it will distribute funds:

23 (1) maintains adequate policies and procedures  
24 designed to eliminate racial profiling; and

25 (2) has eliminated any existing practices that permit

1 or encourage racial profiling.

2 (b) The policies and procedures described in paragraph (1)  
3 of subsection (a) shall include:

4 (1) a prohibition on racial profiling;

5 (2) training on racial profiling issues as part of law  
6 enforcement training;

7 (3) the collection of data under the rules adopted by  
8 the Attorney General under Section 45 of this Act; and

9 (4) participation in an administrative complaint  
10 procedure or independent audit program that meets the  
11 requirements of Section 30 of this Act.

12 Section 30. Attorney General.

13 (a) Not later than 6 months after the effective date of  
14 this Act and in consultation with stakeholders, including law  
15 enforcement agencies and community, professional, research,  
16 and civil rights organizations, the Attorney General shall  
17 adopt rules for the operation of administrative complaint  
18 procedures and independent audit programs to ensure that the  
19 programs and procedures provide an appropriate response to  
20 allegations of racial profiling by law enforcement agents or  
21 agencies. The rules shall contain guidelines that ensure the  
22 fairness, effectiveness, and independence of the  
23 administrative complaint procedures and independent auditor  
24 programs.

25 (b) If the Attorney General determines that the recipient

1 of a grant from any covered program is not in compliance with  
2 the requirements of Section 20 of this Act or any rule adopted  
3 under subsection (a) of this Section, the Attorney General  
4 shall order the distributing agency to withhold, in whole or in  
5 part, at the discretion of the Attorney General, funds for one  
6 or more grants to the recipient under the covered program,  
7 until the recipient establishes compliance.

8 (c) The Attorney General shall provide notice and an  
9 opportunity for private parties to present evidence to the  
10 Attorney General that a recipient of a grant from any covered  
11 program is not in compliance with the requirements of this Act.

12 Section 35. Data collection.

13 (a) The Attorney General may, through competitive grants or  
14 contracts, carry out a 2-year demonstration project for the  
15 purpose of developing and implementing data collection  
16 programs on the hit rates for stops and searches by law  
17 enforcement agencies. The data collected shall be  
18 disaggregated by race, ethnicity, national origin, gender, and  
19 religion.

20 (1) The Attorney General shall provide not more than 10  
21 grants or contracts under this Section.

22 (2) Grants or contracts under this Section shall be  
23 awarded to law enforcement agencies that serve communities  
24 in which there is a significant concentration of racial or  
25 ethnic minorities and that are not already collecting data



1 voluntarily beyond that which is required under the Traffic  
2 Stop Statistical Study Act.

3 (b) Activities carried out with a grant under this Section  
4 shall include:

5 (1) developing a data collection tool and reporting the  
6 compiled data to the Attorney General; and

7 (2) training of law enforcement personnel on data  
8 collection, particularly for data collection on hit rates  
9 for stops and searches.

10 (c) Not later than 3 years after the effective date of this  
11 Act, the Attorney General shall enter into a contract with a  
12 State institution of higher education to analyze the data  
13 collected by each of the grantees funded under this Section.

14 Section 40. Best practices development grants.

15 (a) The Attorney General may make grants to law enforcement  
16 agencies and units of local government to develop and implement  
17 best practice devices and systems to eliminate racial  
18 profiling.

19 (b) The funds provided under subsection (a) of this Section  
20 shall be used for programs that include the following purposes:

21 (1) The development and implementation of training to  
22 prevent racial profiling and to encourage more respectful  
23 interaction with the public.

24 (2) The acquisition and use of technology to facilitate  
25 the accurate collection and analysis of data.

1           (3) The development and acquisition of feedback  
2 systems and technologies that identify officers or units of  
3 officers engaged in, or at risk of engaging in, racial  
4 profiling or other misconduct.

5           (4) The establishment and maintenance of an  
6 administrative complaint procedure or independent auditor  
7 program.

8           (c) The Attorney General shall ensure that grants under  
9 this Section are awarded in a manner that reserves an equitable  
10 share of funding for small and rural law enforcement agencies.

11           (d) Each law enforcement agency or unit of local government  
12 desiring a grant under this Section shall submit an application  
13 to the Attorney General at the time, in the manner, and  
14 accompanied by the information as the Attorney General may  
15 reasonably require.

16           Section 45. Rulemaking.

17           (a) Not later than 6 months after the effective date of  
18 this Act, the Attorney General, in consultation with  
19 stakeholders, including State and local law enforcement  
20 agencies and community, professional, research, and civil  
21 rights organizations, shall adopt rules for the collection and  
22 compilation of data under Sections 15 and 20 of this Act.

23           (b) The rules adopted under subsection (a) shall:

24           (1) provide for the collection of data on all routine  
25 or spontaneous investigatory activities;

1 (2) provide that the data collected shall:

2 (A) be collected by race, ethnicity, national  
3 origin, gender, and religion, as perceived by the law  
4 enforcement officer;

5 (B) include the date, time, and location of the  
6 investigatory activities;

7 (C) include detail sufficient to permit an  
8 analysis of whether a law enforcement agency is  
9 engaging in racial profiling; and

10 (D) not include personally identifiable  
11 information

12 (3) provide that a standardized form shall be made  
13 available to law enforcement agencies for the submission of  
14 collected data to the Attorney General;

15 (4) provide that law enforcement agencies shall  
16 compile data on the standardized form made available under  
17 paragraph (3) of this subsection (b), and submit the form  
18 to the Attorney General;

19 (5) provide that law enforcement agencies shall  
20 maintain all data collected under this Act for not less  
21 than 4 years;

22 (6) include guidelines for setting comparative  
23 benchmarks, consistent with best practices, against which  
24 collected data shall be measured; and

25 (7) provide that the Attorney General shall:

26 (A) analyze the data for any statistically

1 significant disparities, including:

2 (i) disparities in the percentage of drivers  
3 or pedestrians stopped relative to the proportion  
4 of the population passing through the  
5 neighborhood;

6 (ii) disparities in the hit rate;

7 (iii) disparities in the frequency of searches  
8 performed on racial or ethnic minority drivers and  
9 the frequency of searches performed on  
10 non-minority drivers; and

11 (B) not later than 3 years after the effective date  
12 of this Act, and annually thereafter:

13 (i) prepare a report regarding the findings of  
14 the analysis conducted under subparagraph (A) of  
15 this paragraph (7);

16 (ii) provide the report to the General  
17 Assembly; and

18 (iii) make the report available to the public,  
19 including on the Attorney General's website.

20 (c) In addition to the rules under subsections (a) and (b)  
21 of this Section, the Attorney General may adopt any other rules  
22 he or she determines are necessary to implement this Act.

23 Section 50. Publication of data. The Attorney General shall  
24 provide to the General Assembly and make available to the  
25 public, together with each annual report described in Section

1 25, the data collected under this Act, excluding any personally  
2 identifiable information.

3 Section 55. Reports. Not later than 2 years after the  
4 effective date of this Act, and annually thereafter, the  
5 Attorney General shall submit to the General Assembly a report  
6 on racial profiling by law enforcement agencies. Each report  
7 submitted shall include:

8 (1) a summary of data collected under paragraph (3) of  
9 subsection (b) of Section 15 and paragraph (3) of subsection  
10 (b) of Section 20 of this Act and from any other reliable  
11 source of information regarding racial profiling in the State;

12 (2) a discussion of the findings in the most recent report  
13 prepared by the Attorney General under paragraph (7) of  
14 subsection (b) of Section 45 of this Act;

15 (3) the status of the adoption and implementation of  
16 policies and procedures by law enforcement agencies under this  
17 Act; and

18 (4) a description of any other policies and procedures that  
19 the Attorney General believes would facilitate the elimination  
20 of racial profiling.

21 Section 900. The State Lawsuit Immunity Act is amended by  
22 changing Section 1 as follows:

23 (745 ILCS 5/1) (from Ch. 127, par. 801)

1           Sec. 1. Except as provided in the Illinois Public Labor  
2 Relations Act, the Court of Claims Act, the State Officials and  
3 Employees Ethics Act, the Eliminate Racial Profiling Act, and  
4 Section 1.5 of this Act, the State of Illinois shall not be  
5 made a defendant or party in any court.  
6 (Source: P.A. 97-618, eff. 10-26-11.)".