



## 101ST GENERAL ASSEMBLY

### State of Illinois

2019 and 2020

HB0025

Introduced 1/9/2019, by Rep. André Thapedi

#### SYNOPSIS AS INTRODUCED:

New Act

Creates the Eliminate Racial Profiling Act. Provides that no law enforcement agent or law enforcement agency shall engage in racial profiling. Allows the State or a person injured by racial profiling to enforce the racial profiling provision in a civil action for declaratory or injunctive relief. Requires law enforcement agencies to maintain policies and procedures, designed to eliminate racial profiling, and to certify that in applications for certain federal grant programs. Requires the Attorney General to adopt rules for administrative complaint procedures and independent audit programs applicable to law enforcement agencies. Allows the Attorney General to make grants to law enforcement agencies to develop and implement best practices to eliminate racial profiling. Allows the Attorney General to order the withholding of certain federal grants for law enforcement agencies that are not in compliance with the Act. Grants rulemaking authority to the Attorney General to implement the Act. Defines terms.

LRB101 03316 SLF 48324 b

FISCAL NOTE ACT  
MAY APPLY

A BILL FOR

1 AN ACT concerning racial profiling.

2 **Be it enacted by the People of the State of Illinois,**  
3 **represented in the General Assembly:**

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

6 Section 5. Definitions. 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  
17 1701(b) (13) of that part shall be a covered program.

18 "Governmental body" means any department, agency, special  
19 purpose district, or other instrumentality of State or local  
20 government.

21 "Hit rate" means the percentage of stops and searches in  
22 which a law enforcement officer finds drugs, a gun, or other  
23 contraband that leads to an arrest. The hit rate is calculated

1 by dividing the total number of searches by the number of  
2 searches that yield contraband. The hit rate is complementary  
3 to the rate of false stops.

4 "Law enforcement agency" means any State or local public  
5 agency engaged in the prevention, detection, or investigation  
6 of violations of criminal laws.

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

10 "Prevailing party" means a person:

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

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

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

18 "Racial profiling" means the practice of a law enforcement  
19 agent or agency relying, to any degree, on actual or perceived  
20 race, ethnicity, national origin, religion, gender, gender  
21 identity, or sexual orientation in selecting which person to  
22 subject to routine or spontaneous investigatory activities or  
23 in deciding upon the scope and substance of law enforcement  
24 activity following the initial investigatory procedure, except  
25 when there is trustworthy information, relevant to the locality  
26 and time frame, that links a person with a particular

1 characteristic described in this paragraph to an identified  
2 criminal incident or scheme.

3 "Routine or spontaneous investigatory activities" means  
4 the following activities by a law enforcement agent:

5 (1) interviews;

6 (2) traffic stops;

7 (3) pedestrian stops;

8 (4) frisks and other types of body searches;

9 (5) consensual or nonconsensual searches of a person,  
10 property, or his or her possessions, including a vehicle,  
11 of persons using any form of public or private  
12 transportation, including motorists and pedestrians;

13 (6) data collection and analysis, assessments, and  
14 predicated investigations; or

15 (7) any other type of law enforcement encounters  
16 compiled for or by the Department of State Police and the  
17 Racial Profiling Prevention and Data Oversight Board under  
18 the Racial Profiling Prevention and Data Oversight Act.

19 "Reasonable request" means all requests for information,  
20 except for those that:

21 (1) are immaterial to the investigation;

22 (2) would result in the unnecessary disclosure of  
23 personal information; or

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

26 "Unit of local government" means:

1 (1) any municipal, county, township, or other general  
2 purpose political subdivision of this State;

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

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

5 (B) has the authority to, and in a manner  
6 independent of other State entities, establish a  
7 budget and impose taxes.

8 Section 10. Racial profiling prohibition. No law  
9 enforcement agent or law enforcement agency shall engage in  
10 racial profiling.

11 Section 15. Enforcement.

12 (a) The State or a person injured by racial profiling may  
13 enforce Section 10 in a civil action for declaratory or  
14 injunctive relief, filed in a State court of competent  
15 jurisdiction.

16 (b) In any action brought under this Act, relief may be  
17 obtained against:

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

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

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

24 (c) Proof that the routine or spontaneous investigatory

1 activities of law enforcement agents in a jurisdiction have had  
2 a disparate impact on persons with a particular racial  
3 profiling characteristic shall constitute prima facie evidence  
4 of a violation of this Act.

5 (d) Upon motion, a court shall award reasonable attorney's  
6 fees and costs, including expert witness fees and other  
7 litigation expenses, to a plaintiff who is a prevailing party  
8 in any action brought: (1) under subsection (b) of this  
9 Section; or (2) to enforce a right arising under the Illinois  
10 Constitution. In awarding reasonable attorney's fees, the  
11 court shall consider the degree to which the relief obtained  
12 relates to the relief sought.

13 Section 20. Policies to eliminate racial profiling.

14 (a) Law enforcement agencies shall:

15 (1) maintain adequate policies and procedures designed  
16 to eliminate racial profiling; and

17 (2) cease existing practices that permit racial  
18 profiling.

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

21 (1) a prohibition on racial profiling;

22 (2) training on racial profiling issues as part of law  
23 enforcement training;

24 (3) the collection of data under rules adopted under  
25 Section 45;

1 (4) procedures for receiving, investigating, and  
2 responding meaningfully to complaints alleging racial  
3 profiling by law enforcement agents; and

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

7 Section 25. Policies required for grants.

8 (a) An application by a unit of local government or a law  
9 enforcement agency for funding under a covered program shall  
10 include a certification that the unit of local government or  
11 law enforcement agency, and any law enforcement agency to which  
12 it will distribute funds:

13 (1) maintains adequate policies and procedures  
14 designed to eliminate racial profiling; and

15 (2) has eliminated any existing practices that permit  
16 or encourage racial profiling.

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

19 (1) a prohibition on racial profiling;

20 (2) training on racial profiling issues as part of law  
21 enforcement training;

22 (3) the collection of data under the rules adopted by  
23 the Attorney General under Section 45; and

24 (4) participation in an administrative complaint  
25 procedure or independent audit program that meets the

1 requirements of Section 30 of this Act.

2 Section 30. Attorney General; rulemaking authority.

3 (a) Not later than 6 months after the effective date of  
4 this Act and in consultation with stakeholders, including law  
5 enforcement agencies and community, professional, research,  
6 and civil rights organizations, the Attorney General shall  
7 adopt rules for the operation of administrative complaint  
8 procedures and independent audit programs to ensure that the  
9 programs and procedures provide an appropriate response to  
10 allegations of racial profiling by law enforcement agents or  
11 agencies. The rules shall contain guidelines that ensure the  
12 fairness, effectiveness, and independence of the  
13 administrative complaint procedures and independent auditor  
14 programs.

15 (b) If the Attorney General determines that the recipient  
16 of a grant from any covered program is not in compliance with  
17 the requirements of Section 20 or any rule adopted under  
18 subsection (a) of this Section, the Attorney General shall  
19 order the distributing agency to withhold, in whole or in part,  
20 at the discretion of the Attorney General, funds for one or  
21 more grants to the recipient under the covered program, until  
22 the recipient establishes compliance.

23 (c) The Attorney General shall provide notice and an  
24 opportunity for private parties to present evidence to the  
25 Attorney General that a recipient of a grant from any covered



1 program is not in compliance with the requirements of this Act.

2 Section 35. Data collection.

3 (a) The Attorney General may, through competitive grants or  
4 contracts, carry out a 2-year demonstration project for the  
5 purpose of developing and implementing data collection  
6 programs on the hit rates for stops and searches by law  
7 enforcement agencies. The data collected shall be  
8 disaggregated by race, ethnicity, national origin, gender, and  
9 religion.

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

12 (2) Grants or contracts under this Section shall be  
13 awarded to law enforcement agencies that serve communities  
14 in which there is a significant concentration of racial or  
15 ethnic minorities and that are not already collecting data  
16 voluntarily beyond that which is required under the Traffic  
17 Stop Statistical Study Act.

18 (b) Activities carried out with a grant under this Section  
19 shall include:

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

22 (2) training of law enforcement personnel on data  
23 collection, particularly for data collection on hit rates  
24 for stops and searches.

25 (c) Not later than 3 years after the effective date of this

1 Act, the Attorney General shall enter into a contract with a  
2 State institution of higher education to analyze the data  
3 collected by each of the grantees funded under this Section.

4 Section 40. Best practices development grants.

5 (a) The Attorney General may make grants to law enforcement  
6 agencies and units of local government to develop and implement  
7 best practice devices and systems to eliminate racial  
8 profiling.

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

11 (1) The development and implementation of training to  
12 prevent racial profiling and to encourage more respectful  
13 interaction with the public.

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

16 (3) The development and acquisition of feedback  
17 systems and technologies that identify officers or units of  
18 officers engaged in, or at risk of engaging in, racial  
19 profiling or other misconduct.

20 (4) The establishment and maintenance of an  
21 administrative complaint procedure or independent auditor  
22 program.

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



1 information;

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

5 (4) provide that law enforcement agencies shall  
6 compile data on the standardized form made available under  
7 paragraph (3) of this subsection (b), and submit the form  
8 to the Attorney General;

9 (5) provide that law enforcement agencies shall  
10 maintain all data collected under this Act for not less  
11 than 4 years;

12 (6) include guidelines for setting comparative  
13 benchmarks, consistent with best practices, against which  
14 collected data shall be measured; and

15 (7) provide that the Attorney General shall:

16 (A) analyze the data for any statistically  
17 significant disparities, including:

18 (i) disparities in the percentage of drivers  
19 or pedestrians stopped relative to the proportion  
20 of the population passing through the  
21 neighborhood;

22 (ii) disparities in the hit rate;

23 (iii) disparities in the frequency of searches  
24 performed on racial or ethnic minority drivers and  
25 the frequency of searches performed on  
26 non-minority drivers; and

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

3 (i) prepare a report regarding the findings of  
4 the analysis conducted under subparagraph (A) of  
5 this paragraph (7);

6 (ii) provide the report to the General  
7 Assembly; and

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

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

13 Section 50. Publication of data. The Attorney General shall  
14 provide to the General Assembly and make available to the  
15 public, together with each annual report described in Section  
16 25, the data collected under this Act, excluding any personally  
17 identifiable information.

18 Section 55. Reports. Not later than 2 years after the  
19 effective date of this Act, and annually thereafter, the  
20 Attorney General shall submit to the General Assembly a report  
21 on racial profiling by law enforcement agencies. The reports to  
22 the General Assembly shall be filed with the Clerk of the House  
23 of Representatives and the Secretary of the Senate in  
24 electronic form only, in the manner that the Clerk and the

1 Secretary shall direct. Each report submitted shall include:

2 (1) a summary of data collected under paragraph (3) of  
3 subsection (b) of Section 15 and paragraph (3) of subsection  
4 (b) of Section 20 and from any other reliable source of  
5 information regarding racial profiling in the State;

6 (2) a discussion of the findings in the most recent report  
7 prepared by the Attorney General under paragraph (7) of  
8 subsection (b) of Section 45;

9 (3) the status of the adoption and implementation of  
10 policies and procedures by law enforcement agencies under this  
11 Act; and

12 (4) a description of any other policies and procedures that  
13 the Attorney General believes would facilitate the elimination  
14 of racial profiling.