



MISSOURI SENATE

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TO: Senator Nasheed

FROM: Jessi James, Assistant Director

DATE: December 19, 2017

RE: Discriminatory policing

As requested, please find attached a draft bill relating to discriminatory policing.

This version (.05I) varies from the previous (.04I) by removing the provision allowing persons to institute an action against a defendant as a representative of a class and adding that a civil action shall be brought in the county where the injury occurred or where the law enforcement agency operates (590.650.12).

Please let me know if I can be of any additional assistance.

Summary

Currently, every time a peace officer stops a driver the officer must document certain information concerning the stop. This information is compiled by the law enforcement agency and sent to the Attorney General who produces a report. This act modifies various parts of this process.

The act provides that the information documented by the peace officer concerning a vehicle stop must contain whether the driver resides in the jurisdiction of the stop and if consent was given, how the driver's consent was documented. If an investigative stop is made, the officer must document the cause for the stop.

The report produced by the Attorney General shall identify situations in which the data submitted by the law enforcement agencies indicates that racial and ethnic groups are disproportionately affected by law enforcement activity. The report shall include group ratios of disparity for stops, post-stop activities, searches, and contraband found using benchmarks, as defined in the act. The report shall provide certain

information not only for each agency, but also for the state overall. Additionally, the Attorney General may allow the Department of Public Safety to extract data report by the law enforcement agencies used for the report.

Law enforcement agencies must adopt a policy regarding discriminatory policing, rather than race-based traffic stops. The policy must prohibit discriminatory policing and provide for annual reviews, rather than periodic reviews, of the Attorney General's report. The review must analyze complaints received by the law enforcement agency and indicate the number of complaints alleging discriminatory policing. Such review shall be made available to the public. The policy may allow for the dismissal of an officer found to have engaged in discriminatory policing within ninety days of the review.

Members of law enforcement are prohibited from using discriminatory policing. Law enforcement agencies must create a policy prohibiting discriminatory policing, which shall be accessible to the public, and policies to eliminate discriminatory policing in the administration of consent searches. Such procedures shall include requiring a peace officer to document articulable facts about the circumstances leading to the request for consent in individual searches and require the communication of certain information regarding voluntary consent to the individual. Peace officers must obtain written or audio or video recorded consent to search prior to a consent search. Officers shall not ask for consent when they have probable cause. During a traffic stop, a peace officer may only request certain documents from the driver. Any evidence obtained in violation of the policy requirements set forth in the act is inadmissible in court.

If a law enforcement agency reports to the Attorney General for three consecutive years data regarding vehicle stops that demonstrates a significant disproportion in minority stops and the Attorney General determines that a significant disparity exists, then the agency shall be subject to review by the Attorney General for three additional years. If the agency continues to submit data that demonstrates significant disparity, then the Attorney General shall require changes in the agency's policies and practices, and the agency may be subject to ongoing oversight by the Attorney General. If after six years the Attorney General determines that significant disparity still exists, then the governing body that the agency serves may be required to forfeit twenty-five percent of its annual general operating revenue received from fines, bond forfeitures, and courts costs for traffic violations.

A person who suffers harm due to discriminatory policing may bring a civil action to recover damages or other relief as deemed appropriate by the court.

This act is similar to SB 287 (2017), SB 671 (2016), HB 1890 (2016), HB 2245 (2016), HB 2273 (2016), and SB 559 (2015).