

# SENATE BILL No. 41

January 25, 2005, 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

1 treatment of an individual on the basis of the racial or ethnic  
2 status of that individual.

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

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

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

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

19 Sec. 5. (1) The department shall create and provide to local  
20 law enforcement agencies a traffic stop reporting form.  
21 Immediately following each motor vehicle stop, the law enforcement  
22 officer responsible for the stop shall fill out or electronically  
23 complete a traffic stop reporting form for the stop, regardless of  
24 whether a citation was issued.

25 (2) Each local law enforcement agency shall retain its  
26 completed traffic stop reporting forms and make them available for  
27 public review or copying during regular business hours. A local law

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

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

15 Sec. 6. (1) The department shall create and provide to local  
16 law enforcement agencies a complaint form. A local law enforcement  
17 agency shall make a complaint form available to each motorist who  
18 alleges a violation of this act as the result of a stop by a law  
19 enforcement officer. The form shall include an addressed, stamped  
20 envelope to the headquarters of the local law enforcement agency  
21 and the department.

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

27 (3) A local law enforcement agency shall conduct an

1 appropriate investigation of each complaint of racial profiling  
2 received, including an interview with each individual involved in  
3 the incident if the agency finds it necessary, and shall file a  
4 report of the investigation with the department that includes any  
5 video or audio tapes of the incident.

6 (4) A local law enforcement agency shall place a copy of a  
7 complaint made by a motorist under this section, and a record of  
8 the disposition or finding of any investigation or review, in the  
9 personnel file of each officer involved in an alleged violation of  
10 this act.

11 Sec. 7. Each law enforcement agency shall designate an officer  
12 as its community liaison on racial profiling issues. This  
13 community liaison officer shall meet regularly with members of  
14 groups within the community that may be potentially affected by  
15 racial profiling.

16 Sec. 8. A law enforcement officer completing a traffic stop  
17 reporting form shall include the following required information:

18 (a) The traffic stop infraction the motorist is alleged to  
19 have committed that led to the stop, the time of the stop, the  
20 geographical location where the stop occurred, and the total  
21 duration of the stop.

22 (b) Identifying characteristics of the driver stopped,  
23 including the race, gender, ethnicity, and approximate age of the  
24 driver and any passengers in the vehicle and the place of  
25 registration of the vehicle.

26 (c) Whether a search was instituted of the vehicle or the  
27 driver or passengers in the vehicle, or both, as a result of the

1 stop, any alleged criminal behavior by the driver or a passenger in  
2 the vehicle that justified the search, and whether consent was  
3 requested for the search.

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

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

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

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

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

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

16 Sec. 9. A law enforcement officer who receives a substantial  
17 number of racial profiling complaints as determined by the  
18 department may be assigned to further or additional racial  
19 sensitivity training from the training program described in the  
20 commission on law enforcement standards act, 1965 PA 203, MCL  
21 28.601 to 28.616.

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

25 Sec. 11. (1) A grant program is established within the  
26 department of state police to assist local law enforcement agencies  
27 in carrying out the provisions of this act including the purchase

1 of vehicle cameras, diversity training, and data collection  
2 expenses. A grant requires a 50% match from the local unit of  
3 government.

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

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

9 (2) A person shall file an action commenced under subsection  
10 (1) in the circuit court in the county where the alleged violation  
11 occurred or in the county where the person resides.

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

15 Enacting section 1. This act does not take effect unless all  
16 of the following bills of the 93rd Legislature are enacted into  
17 law:

18 (a) Senate Bill No. 42.

19

20 (b) Senate Bill No. 40.

21