

STATE OF KANSAS

SENATE CHAMBER

MADAM PRESIDENT:

I move to amend **SB 355**, as amended by Senate Committee, on page 1, in line 6, before "Section" by inserting "New";

On page 2, following line 20, by inserting:

"Sec. 2. K.S.A. 2019 Supp. 22-4606 is hereby amended to read as follows: 22-4606. As used in this act:

(a) "Governmental unit" means the state, or any county, city or other political subdivision thereof, or any department, division, board or other agency of any of the foregoing, except "governmental unit" shall not include the board of education of any school district employing school security officers.

(b) "Law enforcement agency" means the governmental unit employing the law enforcement officer.

(c) "Law enforcement officer" has the meaning ascribed thereto in K.S.A. 74-5602, and amendments thereto, except "law enforcement officer" shall not include school security officers designated as school law enforcement officers pursuant to K.S.A. 72-8222, and amendments thereto.

(d) ~~"Racial or other biased-based policing" means the unreasonable use of race, ethnicity, national origin, gender or religion by a law enforcement officer in deciding to initiate an enforcement action. It is not racial or other biased-based policing when race, ethnicity, national origin, gender or religion is used in combination with other identifying factors as part of a specific individual description to initiate an enforcement action.~~ "Profiling on the basis of ethnicity" means the practice of unlawfully utilizing information regarding members of a cultural group with a shared identity, ancestry or

linguistic characteristics common to the members or their affiliates. Ethnic groups may also have a common religious association or history.

(e) "Racial profiling or other biased policing":

(1) Means the practice of a law enforcement officer or agency selecting or subjecting an individual to routine investigatory activities, or in deciding upon the scope and substance of law enforcement activity, in whole or in part, based upon: (A) An individual's race, ethnicity, national origin, socioeconomic status, religion, age or gender; or (B) the city, county or state indicated on such person's license plate, driver's license or identification card;

(2) includes profiling on the basis of ethnicity; and

(3) does not include a contact by a law enforcement officer with a person when the contact is only for the purpose of asking the person if they have information regarding the investigation of a complaint, crime or suspicious activity, checking a person's welfare or as part of community outreach or community policing.

(f) "Routine investigatory activities" means activities conducted by law enforcement officers and agencies in conjunction with traffic or pedestrian stops, including, but not limited to:

(1) Frisks and other body searches; and

(2) consensual or nonconsensual searches of persons or possessions, including, but not limited to, vehicles and domiciles.

(e)(g) "Enforcement action" means any law enforcement act, as described in K.S.A. 22-4609, and amendments thereto, during a nonconsensual contact with an individual or individuals.

(f)(h) "Collection of data" means ~~that~~ the information collected by Kansas law enforcement officers ~~after each traffic stop~~ when a person is issued a citation as the result of a pedestrian or traffic stop.

Sec. 3. K.S.A. 2019 Supp. 22-4610 is hereby amended to read as follows: 22-4610. (a) All

law enforcement agencies in this state shall adopt a detailed, written policy to preempt racial-~~or other~~ biased-based profiling or other biased policing. Each agency's policy shall include the definition of racial-~~or other~~ biased-based profiling or other biased policing found in K.S.A. 22-4606, and amendments thereto.

(b) Policies adopted pursuant to this section shall be implemented by all Kansas law enforcement agencies ~~within one year after the effective date of this act~~ on or before July 1, 2021. The policies and data collection procedures shall be available for public inspection during normal business hours.

(c) The policies adopted pursuant to this section shall include, but not be limited to, the following:

(1) A detailed, written policy that prohibits racial-~~or other~~ biased-based profiling or other biased policing and that clearly defines acts constituting racial-~~or other~~ biased-based profiling or other biased policing using language that has been recommended by the attorney general.

(2) (A) The agency policies shall require annual racial-~~or other~~ biased-based profiling or other biased policing training ~~which that~~ shall include, but not be limited to, training relevant to racial-~~or other~~ biased-based profiling or other biased policing. Distance learning training technology shall be allowed for racial-~~or other~~ biased-based profiling or other biased policing training.

(B) Law enforcement agencies may appoint an advisory body of not less than five persons composed of representatives of law enforcement, community leaders and educational leaders to recommend and review appropriate training curricula.

(3) (A) For law enforcement agencies of cities or counties that have exercised the option to establish community advisory boards pursuant to K.S.A. 2019 Supp. 22-4611b, and amendments thereto, use of such community advisory boards which include participants who reflect the racial and ethnic community, to advise and assist in policy development, education and community outreach and

communications related to racial ~~or other biased-based~~ profiling or other biased policing by law enforcement officers and agencies.

(B) Community advisory boards shall receive training on fair and impartial policing and comprehensive plans for law enforcement agencies.

(4) Policies for discipline of law enforcement officers who engage in racial ~~or other biased-based~~ profiling or other biased policing.

(5) A provision that, if the investigation of a complaint of racial ~~or other biased-based~~ profiling or other biased policing reveals the officer was in direct violation of the law enforcement agency's written policies regarding racial ~~or other biased-based~~ profiling or other biased policing, the employing law enforcement agency shall take appropriate action consistent with applicable laws, rules and regulations, resolutions, ordinances or policies, including demerits, suspension or removal of the officer from the agency.

(6) Provisions for community outreach and communications efforts to inform the public of the individual's right to file with the law enforcement agency or the office of the attorney general complaints regarding racial ~~or other biased-based~~ profiling or other biased policing, which outreach and communications to the community shall include ongoing efforts to notify the public of the law enforcement agency's complaint process.

(7) Procedures for individuals to file complaints of racial ~~or other biased-based~~ profiling or other biased policing with the agency, ~~which that~~, if appropriate, may provide for use of current procedures for addressing such complaints.

(d) (1) Each law enforcement agency shall compile an annual report for the period of July 1 to June 30 and shall submit the report on or before July 31 to the office of the attorney general for review. Annual reports filed pursuant to this subsection shall be open public records and shall be posted on the official website of the attorney general.

(2) The annual report shall include:

(A) The number of racial-~~or other biased-based~~ profiling or other biased policing complaints received;

(B) the date each racial-~~or other biased-based~~ profiling or other biased policing complaint is filed;

(C) action taken in response to each racial-~~or other biased-based~~ profiling or other biased policing complaint;

(D) the disposition of each racial-~~or other biased-based~~ profiling or other biased policing complaint;

(E) the date each racial-~~or other biased-based~~ profiling or other biased policing complaint is closed;

(F) whether or not all agency law enforcement officers not exempted by Kansas commission on peace officers' standards and training received the training required in subsection (c)(2)(A);

(G) whether the agency has a policy prohibiting racial-~~or other biased-based~~ profiling or other biased policing;

(H) whether the agency policy mandates specific discipline for sustained complaints of racial ~~or other biased-based~~ profiling or other biased policing; and

(I) whether the agency has a community advisory board and, if such board exists, the report shall include the chairperson's name, mailing address, phone number and email address; ~~and~~

~~(J) whether the agency has a racial or other biased-based policing comprehensive plan or if it collects traffic or pedestrian stop data.~~

Sec. 4. K.S.A. 2019 Supp. 22-4611 is hereby amended to read as follows: 22-4611. (a) Any person who believes such person has been subjected to racial-~~or other biased-based~~ profiling or other biased policing by a law enforcement officer or agency may file a complaint with the law enforcement

agency. The complainant may also file a complaint with the office of the attorney general. The office of the attorney general shall review and, if necessary, investigate the complaint and may find there is insufficient evidence of racial ~~or other biased-based~~ profiling or other biased policing or may forward the complaint for further review and possible action to the Kansas commission on peace officers' standards and training. The commission shall review and, if necessary, further investigate the complaint. The commission may take action on the officer's certification or other corrective action as allowed by its governing statutes and rules and regulations. The commission shall consult with the head of the law enforcement agency before taking final action regarding discipline of any law enforcement officer or other disposition of the complaint.

(b) Within 10 days of receiving a complaint, the office of the attorney general shall provide notification that such complaint has been filed to the accused officer and to the head of the accused officer's law enforcement agency, including a copy of all complaint documentation submitted by the complainant.

~~(c) Upon disposition of a complaint as provided for in subsection (a) the complainant shall have a civil cause of action in the district court against the law enforcement officer or law enforcement agency, or both, and shall be entitled to recover damages if it is determined by the court that such officer or agency engaged in racial or other biased-based policing. The complaint process described in this section shall not prohibit a person who believes such person's rights have been violated to file a civil lawsuit in the district court against the law enforcement officer or law enforcement agency, or both, and recover damages if the court determines that such officer or agency engaged in racial profiling or other biased policing. The court may allow the prevailing party reasonable attorney fees and court costs.~~

Sec. 5. K.S.A. 2019 Supp. 22-4611a is hereby amended to read as follows: 22-4611a. (a) The governing body of a city or the sheriff of the county ~~may shall~~ develop a comprehensive plan in

conjunction with a community advisory board, if one exists, or with community leaders to prevent racial or other biased-based profiling or other biased policing or may require the law enforcement agency of such city or county to collect traffic or pedestrian stop data and make such data available to the public.

(b) Any comprehensive plan adopted pursuant to this section shall include the following:

(1) Policies prohibiting racial or other biased-based profiling or other biased policing to guide well-meaning officers and address racist officers;

(2) policies to promote the recruitment and hiring of a diverse workforce to ensure the workforce is comprised of people who can police in a race-neutral and nonbiased fashion;

(3) training to promote employees' controlled responses to override racial and other biases;

(4) ongoing training of supervisors to enable them to detect and respond effectively to biased behavior;

(5) implement a style of policing that promotes positive interactions between police officers and all communities; and

~~(6) whether or not the governing body or sheriff has included data collection as part of the comprehensive plan; and~~

~~(7) other matters deemed appropriate.~~

~~(c) Data collection, if required, may consist of, but shall not be limited to, one or more of the following for every vehicle or pedestrian stop:~~

~~(1) Originating agency and officer identifier number;~~

~~(2) time and date of the stop;~~

~~(3) duration of the stop in ranges of one to 15 minutes, 16 to 30 minutes or more than 30 minutes;~~

~~(4) beat, district, territory or response area where the traffic stop is conducted;~~

~~(5) primary reason for the officer's investigation, and specifically, whether the stop was call related or self initiated;~~

~~(6) primary reason for the stop, and specifically, whether the stop was based on a moving violation, an equipment violation, reasonable suspicion of a criminal offense, other violation, to render service or assistance, suspicious circumstances, pre-existing knowledge or special detail;~~

~~(7) if a vehicle stop, the county code of vehicle registration, if registered in Kansas, and state code, if registered outside Kansas;~~

~~(8) age, race, gender and ethnicity of the primary person stopped by the officer;~~

~~(9) source of the information required by paragraph (8), and specifically, whether it was obtained from officer perception or investigation;~~

~~(10) whether the officer was aware of the information required by paragraph (8) prior to the stop;~~

~~(11) if a vehicle stop, the number of occupants in the stopped vehicle, including the driver;~~

~~(12) type of action taken, including citation, warning, search, arrest, assistance provided or no action. If the action taken is an arrest, the data collection shall also include the type of arrest, including warrant, resisting arrest, property crime, persons crime, drug crime, traffic crime, DUI or other type of arrest;~~

~~(13) if a search was conducted, the rationale for the search, including vehicle indicators, verbal indicators, physical or visual indicators, document indicators (DOT), incident to arrest or other rationale;~~

~~(14) if a search was conducted, the type of search, including consent search, consent requested but consent denied, inventory, stop and frisk, search warrant, incident to arrest, plain view or probable cause; or~~

~~(15) if a search was conducted, the type of contraband seized, if any, including currency,~~

~~firearms, other weapons, drugs, drug paraphernalia, alcohol products, tobacco products, stolen property or other contraband.~~

~~(d) Nothing in this section shall require a governmental entity to collect data concerning pedestrian stops.~~

New Sec. 6. (a) On and after July 1, 2020, data collected on each citation issued by a Kansas law enforcement officer shall be sent to the Kansas bureau of investigation on a form and in a format approved by the attorney general.

(b) The data collected on each citation shall include:

(1) The officer identification number;

(2) the law enforcement agency code;

(3) the time and date of the stop;

(4) the name of the person stopped;

(5) whether the person was a motorist or pedestrian;

(6) the gender of the person stopped;

(7) the age of the person stopped;

(8) the race of the person stopped: (A) African American; (B) Hispanic; (C) American Indian; (D) Caucasian; (E) Asian; (F) person of Middle-Eastern descent; or (G) other, as stated by the person stopped or by officer observation;

(9) the reason for the stop: (A) Violation of the criminal code; (B) violation of a county resolution or city ordinance; (C) call for service; (D) suspect or vehicle description or pre-existing knowledge or information, such as a warrant; (E) citizen assist or welfare; (F) traffic violation, such as a moving violation, equipment failure or license plate violation; or (G) other. If a moving violation, the officer shall indicate the specific violation;

(10) the result of the stop: (A) Citation; (B) warning; (C) arrest; or (D) other;

(11) if the person was arrested, what crime or violation was alleged;

(12) if applicable, the nature of the search conducted on the pedestrian, driver or passenger, or of the vehicle or property;

(13) if applicable, the search authority: (A) By consent; (B) tow inventory; (C) odor of drugs or alcohol; (D) plain view contraband; (E) incidental to arrest; (F) dog alert; (G) search warrant; or (H) other;

(14) if applicable, the type of contraband discovered: (A) Illegal drugs; (B) drug paraphernalia; (C) weapons; (D) alcohol; (E) currency or stolen property; or (F) other;

(15) the stop location in agency boundaries, using the specific address of each stop, including street address or highway mile marker, city and county;

(16) the duration of the stop: (A) Under 5 minutes; (B) 5-9 minutes; (C) 10-19 minutes; (D) 20-29 minutes; (E) 30-39 minutes; (F) 40-49 minutes; (G) 50-59 minutes; or (H) greater than 60 minutes;

(17) the vehicle license plate number; and

(18) the signature of the law enforcement officer making the stop.

(c) A copy of the completed citation shall be given by the law enforcement officer to the motorist or pedestrian who was stopped.

(d) Within 15 days after each citation is issued, the forms described in subsection (a) shall be transmitted by each Kansas law enforcement agency to the office of the Kansas bureau of investigation, where data from such forms shall be compiled into a statewide citation database.

(e) (1) At the beginning of each month, the attorney general shall receive compiled statewide citation data from the Kansas bureau of investigation and make such data available to the public and all law enforcement agencies.

(2) The data received by the attorney general shall be analyzed by statistical experts for

patterns of racial profiling or other biased policing at least once every three months. The results of each three-month statistical analysis shall be posted on the official website of the attorney general within two weeks after each analysis is completed.

(f) Law enforcement agencies or individual officers who need to correct their racial profiling or other biased policing behavior shall be contacted by the attorney general's office within two weeks after a pattern of racial profiling or other biased policing is identified as one standard deviation above the mean for all racial or other groups of motorists and pedestrians stopped in a five-block radius in a town or city or a 10-mile section of road or highway.

(g) An annual report summarizing the types of citizen contacts and identifying law enforcement agencies that need to end their racial profiling or other biased policing shall be prepared by the attorney general and submitted to the legislature, governor and Kansas law enforcement agencies on or before January 10 of each year. Each annual report shall be posted on the official website of the attorney general by January 15 of each year.

(h) Any law enforcement officer shall provide, without being asked, such officer's business card to any person whom the law enforcement officer has detained in a traffic or pedestrian stop. The business card shall include identifying information about the law enforcement officer, including, but not limited to, the law enforcement officer's name, division, precinct and badge or other identification number and a telephone number that may be used, if necessary, to report any comments, positive or negative, regarding the stop.

(i) Nothing in this section shall be construed to require the collection and maintenance of information in connection with roadblocks, vehicle checks or checkpoints, except when such traffic stops result in a warning, search, seizure or arrest.

Sec. 7. K.S.A. 2019 Supp. 22-4606, 22-4610, 22-4611 and 22-4611a are hereby repealed.";

And by renumbering sections accordingly;

On page 1, in the title, in line 3, after "crimes" by inserting "; law enforcement; racial profiling; data collection and reporting requirements; amending K.S.A. 2019 Supp. 22-4606, 22-4610, 22-4611 and 22-4611a and repealing the existing sections"

Senator _____