SB84
181526-1
By Senator Smitherman
RFD: Judiciary
First Read: 09-JAN-18
SYNOPSIS: Existing law does not require the keeping of statistics to determine if traffic stops are being made solely on the basis of the racial or ethnic status of persons.

This bill would define racial profiling and would prohibit a law enforcement officer from engaging in racial profiling.

This bill would require county and municipal police departments and the Alabama State Law Enforcement Agency to adopt written policies to prohibit racial profiling; would require the adoption of the forms to be used for statistics of traffic stops; would provide for complaints; and would require reports to be filed in the Office of the Attorney General.

Amendment 621 of the Constitution of Alabama of 1901, now appearing as Section 111.05 of the Official Recompilation of the Constitution of Alabama of 1901, as amended, prohibits a general law whose purpose or effect would be to require a
new or increased expenditure of local funds from becoming effective with regard to a local governmental entity without enactment by a 2/3 vote unless: it comes within one of a number of specified exceptions; it is approved by the affected entity; or the Legislature appropriates funds, or provides a local source of revenue, to the entity for the purpose.

The purpose or effect of this bill would be to require a new or increased expenditure of local funds within the meaning of the amendment. If this bill is not enacted by a 2/3 vote, it will not become effective with regard to a local entity unless approved by the local entity or until, and only as long as, the Legislature appropriates funds or provides for a local source of revenue.

A BILL TO BE ENTITLED AN ACT Relating to traffic stops; to prohibit a law enforcement officer from engaging in racial profiling; to require adoption of written policies and the forms to be used for statistics on traffic stops; to provide for complaints; to require reports to be filed in the Office of the Attorney General; and in connection therewith to have as its purpose or
effect the requirement of a new or increased expenditure of
local funds within the meaning of Amendment 621 of the
Constitution of Alabama of 1901, now appearing as Section
111.05 of the Official Recompilation of the Constitution of
Alabama of 1901, as amended.

BE IT ENACTED BY THE LEGISLATURE OF ALABAMA:

Section 1. (a) For the purposes of this section,
"traffic stops based on racial profiling" shall mean the
detention, interdiction, or other disparate treatment of a
motorist solely on the basis of the racial or ethnic status of
the motorist.

(b) No member of the Alabama State Law Enforcement
Agency, a county or municipal police department, or any other
law enforcement agency shall engage in traffic stops based on
racial profiling. The detention of an individual based on any
noncriminal factor or combination of noncriminal factors shall
be inconsistent with this policy.

(c) The race or ethnicity of a motorist shall not be
the sole factor in determining the existence of probable cause
to place in custody, to make an arrest of the motorist, or in
constituting a reasonable and articulable suspicion that an
offense has been or is being committed to justify the
detention of the motorist or the investigatory stop of a motor
vehicle.

Section 2. (a) No later than January 1, following
the effective date of this act, each county and municipal
police department and the Alabama State Law Enforcement Agency
shall adopt a written policy that prohibits the stopping, detention, or search of any motorist when the action is solely motivated by considerations of race, color, ethnicity, age, gender, or sexual orientation, and the action would constitute a violation of the civil rights of the person.

(b) Commencing on January 1, following the effective date of this act, each county and municipal police department and the Alabama State Law Enforcement Agency, using the form developed and promulgated pursuant to Section 3, shall record and retain all of the following information:

(1) The number of persons stopped for traffic violations.

(2) Characteristics of race, color, ethnicity, gender, and age of the persons, provided the identification of the characteristics shall be based on the observation and perception of the law enforcement officer responsible for reporting the stop and the information shall not be required to be provided by the person stopped.

In addition to the foregoing, when a law enforcement officer provides the aforementioned observed characteristics of the person stopped, the same characteristics of the law enforcement officer shall be provided in the same manner and adjacent to the information regarding the person stopped.

(3) The nature of the alleged traffic violation that resulted in the stop.

(4) Whether a warning or citation was issued, an arrest made, or a search conducted as a result of the stop.
(5) Any additional information that the county or municipal police department or the Alabama State Law Enforcement Agency deems appropriate.

(c) Each county and municipal police department and the Alabama State Law Enforcement Agency shall provide to the Office of the Attorney General a copy of each complaint received of a violation of this act, and written notification of the review and disposition of the complaint.

(d) Demographic information collected in good faith by a law enforcement officer pursuant to the requirements of this section shall not serve as the basis of any civil action.

(e) If a county or municipal police department or the Alabama State Law Enforcement Agency fails to comply with this section, the Attorney General may recommend and may order an appropriate penalty in the form of the withholding of funds from the county or municipal police department or withholding of funds from the Alabama State Law Enforcement Agency until such time that the county or municipal police department or the Alabama State Law Enforcement Agency completes appropriate training regarding racial profiling.

(f) On or before October 1 of the second year following the effective date of this act, and annually thereafter, each county and municipal police department and the Alabama State Law Enforcement Agency shall provide to the Attorney General, in the form the Attorney General shall prescribe, a summary report of the information recorded pursuant to subsection (b).
(g) The Attorney General, within the limits of existing appropriations, shall provide for a review of the prevalence and disposition of traffic stops and complaints reported pursuant to this act. No later than the fifth legislative day of the Regular Session of the Legislature of Alabama, commencing in the second year following the effective date of this act, the Attorney General shall report to the Governor and the Legislature of Alabama the results of the review, including any recommendations.

Section 3. No later than January 1, following the effective date of this act, the Attorney General, in conjunction with the Secretary of the Alabama State Law Enforcement Agency, the Administrative Office of Courts, and the Peace Officers' Standards and Training Commission shall develop and promulgate both of the following:

(1) A form, in both printed and electronic format, to be used by a law enforcement officer when making a traffic stop to record personal identifying information about the operator of the motor vehicle that is stopped and the personal identifying information about the law enforcement officer, the location of the stop, the reason for the stop, and other information that is required to be recorded pursuant to subsection (b) of Section 2.

(2) A form in both printed and electronic format, to be used to report complaints pursuant to Section 2 by persons who believe that they have been subjected to a motor vehicle
stop by a law enforcement officer solely on the basis of their race, color, ethnicity, age, gender, or sexual orientation.

Section 4. Amendment 621 of the Constitution of Alabama of 1901, now appearing as Section 111.05 of the Official Recompilation of the Constitution of Alabama of 1901, as amended, prohibits a general law whose purpose or effect would be to require a new or increased expenditure of local funds from becoming effective with regard to a local governmental entity without enactment by a 2/3 vote unless: it comes within one of a number of specified exceptions; it is approved by the affected entity; or the Legislature appropriates funds, or provides a local source of revenue, to the entity for the purpose.

The purpose or effect of this bill would be to require a new or increased expenditure of local funds within the meaning of the amendment. If this bill is not enacted by a 2/3 vote, it will not become effective with regard to a local entity unless approved by the local entity or until, and only as long as, the Legislature appropriates funds or provides for a local source of revenue.

Section 5. This act shall become effective on the first day of the third month following its passage and approval by the Governor, or its otherwise becoming law.