



# Ohio Legislative Service Commission

## Bill Analysis

Lisa Sandberg

### **S.B. 107**

128th General Assembly  
(As Introduced)

**Sens.** Kearney, Turner, D. Miller, Sawyer, R. Miller

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## **BILL SUMMARY**

- Specifies that it is an unlawful discriminatory practice for any law enforcement agency or officer in Ohio to engage in racial profiling.
- Requires the Ohio Civil Rights Commission to compile data from law enforcement agencies regarding routine or spontaneous investigatory activities of the agencies' officers and analyze the data for significantly significant disparities related to the race, ethnicity, national origin, or gender of the subjects of the activities.
- Provides for the Ohio Civil Rights Commission's access to LEADS (Law Enforcement Automated Data System) to obtain the data and require law enforcement agencies to enter the data on LEADS.
- Requires law enforcement agencies to maintain a policy designed to eliminate racial profiling by the agency and its officers and to cease existing practices by the agency and its officers that permit or encourage racial profiling.

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## **CONTENT AND OPERATION**

### **Policy to eliminate racial profiling**

The bill requires each law enforcement agency in this state that employs or is served by any law enforcement officer to maintain a policy that is designed to eliminate racial profiling by the agency and its law enforcement officers and to cease existing practices by the agency and its officers that permit or encourage racial profiling. The policy must include, but shall not be limited to, all of the following (R.C. 2933.84):

(1) A prohibition on racial profiling by the agency and its law enforcement officers;

(2) Provisions for training on racial profiling issues as part of the training of the agency's law enforcement officers;

(3) Provisions for facilitating the collection of data to be used by the Ohio Civil Rights Commission pursuant to the bill, including through the entry of data on the law enforcement automated data system;

(4) Procedures for receiving, investigating, and responding meaningfully to complaints alleging racial profiling by the agency's law enforcement officers;

(5) A requirement that corrective action be taken when the agency's law enforcement officers are determined to have engaged in racial profiling.

### **Racial profiling**

The bill provides that it is an unlawful discriminatory practice for any law enforcement agency in this state or any law enforcement officer employed by or serving any law enforcement agency in this state to engage in racial profiling. Not later than January 1, 2010, the Ohio Civil Rights Commission must inform law enforcement agencies in this state that employ or are served by any law enforcement officer of the types of information the Commission needs to perform its duties prescribed in the bill and must inform the agencies that, on and after January 1, 2010, they must include all of those types of information for each entry the agencies make on the law enforcement automated data system for a routine or spontaneous investigatory activity. The bill provides that the Commission, as a governmental, noncriminal justice agency created by state statute that has a mission to enforce or assist in enforcing federal, state, and local laws and ordinances, is entitled to participate in and have access to the Law Enforcement Automated Data System (LEADS) for the purposes of collecting, compiling, maintaining, and analyzing data from law enforcement agencies as described below. (R.C. 4112.024(B), (C), and (D).)

Under the bill, through its access to LEADS, on and after January 1, 2010, the Commission must collect, compile, and maintain data from all law enforcement agencies in this state regarding all routine or spontaneous investigatory activities of the officers of the agencies. The Commission must compile and maintain the data in five separate data sets. One data set must contain the data for all persons who were the subjects of the routine or spontaneous investigatory activities. One data set must separate the data into subsets that are based on the race of the persons who were the subjects of the activities. One data set must separate the data into subsets that are based on the ethnicity of the persons who were the subjects of the activities. One data set must separate the data into subsets that are based on the national origin of the persons who were the subjects of the activities. One data set must separate the data into subsets

that are based on the gender of the persons who were the subjects of the activities. In each data set, the information provided for each routine or spontaneous investigatory activity must include the date, time, and location of the activity, must indicate whether or not a search of any vehicle was conducted, and must indicate if any search conducted resulted in a seizure of any item. (R.C. 4112.024(E).)

For calendar year 2010 and each calendar year thereafter, the Commission must analyze the data collected, compiled, and maintained described above for any significantly significant disparities related to the race, ethnicity, national origin, or gender of the persons who were the subjects of the routine or spontaneous investigatory activities, including, but not limited to, any of the following (R.C. 4112.024(F)):

(1) Any disparity in the percentage of drivers or pedestrians who were stopped in a particular neighborhood and who are of a particular race, ethnicity, national origin, or gender relative to the total number of drivers or pedestrians passing through that neighborhood who were stopped and relative to the percentage of drivers or pedestrians who were stopped in that neighborhood and who are not of that race, ethnicity, national origin, or gender;

(2) Any disparity in the percentage of false stops of drivers or pedestrians who are of a particular race, ethnicity, national origin, or gender relative to the total number of drivers or pedestrians who were subjected to a false stop and relative to the percentage of false stops of drivers or pedestrians who are not of that race, ethnicity, national origin, or gender;

(3) Any disparity in the frequency of searches performed on drivers who are of a particular race, ethnicity, national origin, or gender relative to the total number of searches performed on drivers and relative to the frequency of searches performed on drivers who are not of that race, ethnicity, national origin, or gender.

On or before May 1, 2011, and on or before May 1 in each calendar year thereafter, the Commission must prepare a report of the results of the data analysis described above for the preceding calendar year and must provide a copy of the report to both houses of the General Assembly, the Governor, and the Attorney General (R.C. 4112.024(G)).

### **Filing a charge with the Civil Rights Commission**

Under existing law, a person may file a charge with the Civil Rights Commission alleging that another person has engaged or is engaging in an unlawful discriminatory practice. In certain specified cases of a charge alleging an unlawful discriminatory practice, the charge must be in writing and under oath and must be filed with the Commission within six months after the alleged unlawful discriminatory practice was

committed. Upon receiving a charge, the Commission may initiate a preliminary investigation to determine whether it is probable that an unlawful discriminatory practice has been or is being engaged in. The Commission also may conduct, upon its own initiative and independent of the filing of any charges, a preliminary investigation relating to certain specified unlawful discriminatory practices. The bill includes the act of racial profiling by any law enforcement agency in this state or any law enforcement officer employed by or serving any law enforcement agency in this state within the list of types of charges for which the charge must be in writing and filed within six months after the alleged discriminatory practice. It also allows the Commission to conduct, upon its own initiative and independent of the filing of any charges of racial profiling, a preliminary investigation of such charges. (R.C. 4112.05(B)(1) and (2).)

### **Civil penalty**

Under existing law, a person who violates R.C. Ch. 4112. is subject to a civil action for damages, injunctive relief, or any other appropriate relief. The bill does not amend this provision but, under the bill, a person who engages in racial profiling would also be subject to the civil penalty. (R.C. 4112.99, not in the bill.)

### **Definitions**

The bill includes racial profiling by any law enforcement agency in this state or any law enforcement officer employed by or serving any law enforcement agency in this state within the definition of "unlawful discriminatory practice" (R.C. 4112.01(A)(8)).

The bill provides the following definitions for use in its provisions (R.C. 4112.024(A)):

(1) "False stop" means a traffic stop of a driver or pedestrian stop of a person by a law enforcement officer when the officer gives no citation or warning to the driver or person.

(2) "Racial profiling" means the practice of a law enforcement officer or law enforcement agency that relies, to any degree, on race, ethnicity, or national origin in selecting which individual to subject to any routine or spontaneous investigatory activity or in deciding upon the scope and substance of any law enforcement activity following an initial investigatory procedure, except when there is trustworthy information that is relevant to the locality and time frame and that links a person of a particular race, ethnicity, or national origin to an identified criminal incident or scheme.

(3) "Routine or spontaneous investigatory activity" refers to an activity by a law enforcement officer that is any of the following:

- (a) An interview with a person;
- (b) A traffic stop or pedestrian stop of a person;
- (c) A frisk or another type of body search of a person;
- (d) A consensual or nonconsensual search of the person or any possession, including any vehicle, of a motorist or pedestrian;
- (e) An immigration-related apprehension, detention, or investigation of a person.

"Routine or spontaneous investigatory activity" does not include any contact with a person that is for the sole purpose of obtaining or asking for information about an investigation of a complaint, crime, or suspicious activity.

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## HISTORY

ACTION	DATE
Introduced	04-09-09

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