

NOT GERMANE

Senator Fort of the 39th offered the following amendment:

1 *Amend the Senate Special Judiciary Committee substitute to SB 529 (LC 29 4296ERS) by*
 2 *inserting after "abortion;" on line 7 the following:*

3 to amend Chapter 1 of Title 40 of the Official Code of Georgia Annotated, relating to
 4 general provisions relative to motor vehicles and traffic, so as to require policies that
 5 prohibit law enforcement officers from impermissibly using race or ethnicity in
 6 determining whether to stop a motorist or pedestrian; to require annual training of law
 7 enforcement officers on impermissible uses of race and ethnicity in stopping motorists or
 8 pedestrians; to require law enforcement officers to document the race, ethnicity, and gender
 9 of a motorist and passengers or a pedestrian;

10 *By inserting between lines 78 and 79 the following:*

SECTION 3.1.

11
 12 Chapter 1 of Title 40 of the Official Code of Georgia Annotated, relating to general
 13 provisions relative to motor vehicles and traffic, is amended by adding a new Code section
 14 to read as follows:

15 "40-1-8.

16 (a) As used in this Code section, the term:

17 (1) 'Law enforcement officer' means any person who, in an official capacity, is
 18 authorized by law to make arrests and who is an employee of a law enforcement agency.

19 (2) 'Pedestrian stop' means an interaction between a law enforcement officer and an
 20 individual on foot who is being detained for the purpose of a criminal investigation in
 21 which the person is not under arrest.

22 (3) 'Racial profiling' means the practice of a law enforcement agent relying, to any
 23 degree, on perceived or actual race, ethnicity, national origin, or religion in selecting
 24 which individuals to subject to investigatory activities, or in deciding upon the scope and
 25 substance of law enforcement activity following the initial investigatory activity, except
 26 where such criteria are used in combination with other identifying factors in seeking to
 27 apprehend a specific suspect whose apparent race, ethnicity, or national origin is part of
 28 the description of the suspect and said description is reliable and locally relevant.

29 (4) 'Traffic stop' means any instance when a law enforcement officer stops the driver of
 30 a motor vehicle and detains the driver for any period of time. For the purposes of this
 31 Code section, a traffic stop does not include:

32 (A) A stop of multiple vehicles due to a traffic accident or emergency requiring the
33 stopping of vehicles for public safety purposes; or

34 (B) A stop based solely on the use of radar, laser, or Vascar technology.

35 (b) No law enforcement officer shall engage in racial profiling by using a person's
36 perceived or actual race, ethnicity, national origin, or religion to form probable cause or
37 reasonable suspicion of illegal activity.

38 (c) No law enforcement officer shall conduct a search in the absence of reasonable
39 suspicion, probable cause, or consent, where the individual is informed of the right to
40 refuse. Where consent is given, it must be in writing and signed by the individual.

41 (d) Each state and local law enforcement agency shall adopt a policy regarding racial
42 profiling that:

43 (1) Prohibits racial profiling as defined in this Code section;

44 (2) Requires that law enforcement officers articulate reasonable suspicion, probable
45 cause, or consent prior to a stop, frisk, arrest, search, or detention and defines reasonable
46 suspicion and probable cause to ensure that race, ethnicity, national origin, or religion is
47 not a basis for their establishment;

48 (3) Requires informing the individual stopped of the right to refuse a search where there
49 is no reasonable suspicion or probable cause, and where consent is given, requires
50 obtaining the consent in writing signed by the individual;

51 (4) Requires law enforcement officers to identify themselves by full name and
52 jurisdiction and proffer written identification, such as a business card;

53 (5) Provides standards for the use of in-car audio and visual equipment, including the
54 requirement that all audio and videotapes be preserved for a minimum of 90 days;

55 (6) Provides for appropriate disciplinary procedures for law enforcement officers found
56 to have engaged in racial profiling; and

57 (7) Provides for appropriate disciplinary procedures for law enforcement supervisors
58 found to have encouraged or abetted racial profiling or otherwise permitted it.

59 The Attorney General shall take all necessary steps to ensure timely compliance with the
60 policy requirements contained in this subsection, including sanctions against any law
61 enforcement agency for failure to comply with the policy requirements.

62 (e) Each state and local law enforcement agency shall implement an annual training
63 program for all law enforcement officers and supervisors regarding racial profiling that:

64 (1) Emphasizes the prohibition against racial profiling as defined in this Code section;

65 (2) Ensures that operating procedures adequately implement the prohibition against
66 racial profiling and that law enforcement personnel have copies of, have demonstrated
67 (through testing or other measured means) understanding of, and are following the
68 procedures;

- 69 (3) Includes comprehensive, scenario-based sessions that begin in the law enforcement
70 training academy and continue with regular continuing education and certification;
71 (4) Includes foreign language instruction, where appropriate, to ensure communication
72 with residents of non-English-speaking communities; and
73 (5) Stresses understanding and respect for racial and cultural differences and
74 development of effective, noncombative methods of carrying out law enforcement duties
75 in a racially and culturally diverse environment.

76 The Attorney General shall take all necessary steps to ensure timely compliance with the
77 training requirements contained in this subsection, including sanctions against any law
78 enforcement agency for failure to comply.

79 (f) Each time a law enforcement officer stops a motor vehicle or a pedestrian, that officer
80 shall document the following information:

- 81 (1) The identification of the law enforcement officer, including name and identification
82 or badge number;
83 (2) The agency employing the law enforcement officer;
84 (3) The age, gender, race, and ethnicity of the individual subjected to the stop, based on
85 the observation or perception of the law enforcement officer;
86 (4) The date, time, duration, and location of the stop;
87 (5) Whether the law enforcement officer requested information about the person's
88 immigration status or country of origin;
89 (6) Whether the law enforcement officer examined a state-issued identification card
90 issued to the person, including the person's date of birth, state, and country of residence,
91 if available;
92 (7) In the case of a traffic stop, the license plate number and state of registration of the
93 vehicle stopped, and the description of the vehicle, including make, model, condition, and
94 color;
95 (8) The alleged violation that led to the stop;
96 (9) In the case of a traffic stop, whether the law enforcement officer requested the person
97 to exit the vehicle;
98 (10) Whether a search was conducted as a result of the stop;
99 (11) Whether the search was conducted pursuant to consent, probable cause, or
100 reasonable suspicion to suspect a crime, including the basis for the request for consent
101 or the circumstances establishing probable cause or reasonable suspicion;
102 (12) In cases of consent searches, whether consent was given in writing by the
103 individual;
104 (13) Whether passengers were present and, if so, the passengers' age, gender, race, and
105 ethnicity, based on the observation or perception of the law enforcement officer;

- 106 (14) Whether any person's, including the passengers', property or personal effects were
107 searched, (vehicle or other), and the scope of the search;
- 108 (15) Whether contraband was found, the type and approximate amount of contraband,
109 and whether contraband was seized;
- 110 (16) Whether any citation or any oral or written warning was issued as a result of the
111 stop;
- 112 (17) If a warning or citation was issued, the violation charged or warning provided;
- 113 (18) Whether an arrest was made as a result of either the stop or the search;
- 114 (19) If an arrest was made, the crime charged;
- 115 (20) Whether the law enforcement officer making the stop encountered any physical
116 resistance, whether the officer engaged in the use of force, and whether injuries resulted;
117 and
- 118 (21) Whether the circumstances surrounding the stop were the subject of any
119 investigation and the results of that investigation.
- 120 The information gathered pursuant to this subsection shall be collected and reported on an
121 annual basis to the Attorney General using a format determined by the Attorney General.
- 122 (g) In addition to the information collected under subsection (f) of this Code section, each
123 law enforcement agency shall send to the Attorney General on a monthly basis:
- 124 (1) All of the forms collected that month regarding motorists or pedestrians who were
125 stopped;
- 126 (2) Any complaints filed by motorists or pedestrians who believed they were the subject
127 of racial profiling; and
- 128 (3) Any other information the Attorney General deems appropriate.
- 129 (h) Law enforcement agencies and the Attorney General shall review the data required to
130 be collected under this Code section on an annual basis to determine whether members of
131 minority groups are disproportionately stopped, searched, warned, or arrested, shall report
132 findings to the public on an annual basis using a format determined by the Attorney
133 General, and shall take appropriate remedial action.
- 134 (i) The Attorney General shall take all necessary steps to ensure timely compliance with
135 the data collection and reporting requirements, including sanctions against any law
136 enforcement agency for failure to comply.
- 137 (j) Each law enforcement agency shall provide to the Attorney General an annual report
138 of the information recorded under the provisions of this Code section. The Attorney
139 General shall determine the format that all law enforcement agencies shall use to submit
140 this report.
- 141 (k) The Attorney General shall analyze the annual reports of law enforcement agencies
142 required under subsection (j) of this Code section and submit a report of the findings to the

143 Governor, the General Assembly, and each law enforcement agency no later than January
144 1 of each year. The report of the Attorney General shall include an analysis of the
145 collected data in accordance with general statistical standards. The report, findings, and
146 conclusions submitted by the Attorney General shall be deemed public records. The report
147 shall include at least the following information for each law enforcement agency:

148 (1) The total number of vehicles and pedestrians stopped by law enforcement officers
149 during the previous calendar year;

150 (2) The number and percentage of stopped motor vehicles that were driven by members
151 of each particular minority group;

152 (3) A comparison of the percentage of stopped motor vehicles driven by each minority
153 group and the percentage of the state's population, driving age population, and owners of
154 motor vehicles that each minority group comprises; and

155 (4) A compilation of the information reported by law enforcement agencies pursuant to
156 this Code section.

157 (l) The Attorney General shall establish independent procedures for receiving,
158 investigating, and responding meaningfully to complaints alleging racial profiling by law
159 enforcement officers. The Attorney General shall further require each law enforcement
160 agency to make available on its website the racial profiling complaint filing procedures.

161 (m) During the collection of data under this Code section, the information and forms
162 collected shall be public records if a citation was issued or an arrest was made, and the
163 information or forms shall include a citation or arrest number for reference. All data
164 collected pursuant to this Code section shall be made public upon the completion of each
165 year's study and the submission of the Attorney General's report.

166 (n) In addition to any penalties or sanctions implemented by the Attorney General, if a law
167 enforcement agency fails to comply with the provisions of this Code section, the Governor
168 shall withhold any state funds appropriated to the noncompliant law enforcement agency.

169 (o) Nothing in this Code section shall be construed to alter the requirements for
170 determining probable cause or reasonable suspicion under the Constitution of the United
171 States or the Constitution of the State of Georgia."