

Senate Bill 325

By: Senators Butler of the 55th, Jones of the 10th, Sims of the 12th, Tate of the 38th, Seay of the 34th and others

A BILL TO BE ENTITLED
AN ACT

1 To amend Chapter 1 of Title 40 of the Official Code of Georgia Annotated, relating to
2 general provisions relative to motor vehicles and traffic, so as to require policies that prohibit
3 law enforcement officers from impermissibly using race or ethnicity in determining whether
4 to stop a motorist or pedestrian; to require annual training of law enforcement officers on
5 impermissible uses of race and ethnicity in stopping motorists or pedestrians; to require law
6 enforcement officers to document the race, ethnicity, and gender of a motorist and passengers
7 or pedestrian; to provide for related matters; to provide for an effective date and applicability;
8 to repeal conflicting laws; and for other purposes.

9 BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

10 style="text-align:center">**SECTION 1.**

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

14 "40-1-8.

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

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

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

21 (3) 'Racial profiling' means the practice of a law enforcement agent relying, to any
22 degree, on perceived or actual race, ethnicity, national origin, or religion in selecting
23 which individuals to subject to investigatory activities, or in deciding upon the scope and
24 substance of law enforcement activity following the initial investigatory activity, except
25 where such criteria are used in combination with other identifying factors in seeking to

26 apprehend a specific suspect whose apparent race, ethnicity, or national origin is part of
 27 the description of the suspect and said description is reliable and locally relevant.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

- 63 (1) Emphasizes the prohibition against racial profiling as defined in this Code section;
64 (2) Ensures that operating procedures adequately implement the prohibition against
65 racial profiling and that law enforcement personnel have copies of, have demonstrated
66 (through testing or other measured means) understanding of, and are following the
67 procedures;
68 (3) Includes comprehensive, scenario-based sessions that begin in the law enforcement
69 training academy and continue with regular continuing education and certification;
70 (4) Includes foreign language instruction where appropriate, to ensure communication
71 with residents of non-English-speaking communities; and
72 (5) Stresses understanding and respect for racial and cultural differences and
73 development of effective, noncombative methods of carrying out law enforcement duties
74 in a racially and culturally diverse environment.

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

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

- 80 (1) The identification of the law enforcement officer, including name and identification
81 or badge number;
82 (2) The agency employing the law enforcement officer;
83 (3) The age, gender, race, and ethnicity of the individual subjected to the stop, based on
84 the observation or perception of the law enforcement officer;
85 (4) The date, time, duration, and location of the stop;
86 (5) Whether the law enforcement officer requested information about the person's
87 immigration status or country of origin;
88 (6) Whether the law enforcement officer examined a state-issued identification card
89 issued to the person, including the person's date of birth, state, and country of residence,
90 if available;
91 (7) In the case of a traffic stop, the license plate number and state of registration of the
92 vehicle stopped, and the description of the vehicle, including make, model, condition, and
93 color;
94 (8) The alleged violation that led to the stop;
95 (9) In the case of a traffic stop, whether the law enforcement officer requested the person
96 to exit the vehicle;
97 (10) Whether a search was conducted as a result of the stop;

- 98 (11) Whether the search was conducted pursuant to consent, probable cause, or
99 reasonable suspicion to suspect a crime, including the basis for the request for consent
100 or the circumstances establishing probable cause or reasonable suspicion;
- 101 (12) In cases of consent searches, whether consent was given in writing by the
102 individual;
- 103 (13) Whether passengers were present and, if so, the passengers' age, gender, race, and
104 ethnicity, based on the observation or perception of the law enforcement officer;
- 105 (14) Whether any person's, including the passengers', property or personal effects were
106 searched (vehicle or other), and the scope of the search;
- 107 (15) Whether contraband was found, the type and approximate amount of contraband,
108 and whether contraband was seized;
- 109 (16) Whether any citation or any oral or written warning was issued as a result of the
110 stop;
- 111 (17) If a warning or citation was issued, the violation charged or warning provided;
- 112 (18) Whether an arrest was made as a result of either the stop or the search;
- 113 (19) If an arrest was made, the crime charged;
- 114 (20) Whether the law enforcement officer making the stop encountered any physical
115 resistance, whether the officer engaged in the use of force, and whether injuries resulted;
116 and
- 117 (21) Whether the circumstances surrounding the stop were the subject of any
118 investigation and the results of that investigation.
- 119 The information gathered pursuant to this subsection shall be collected and reported on an
120 annual basis to the Attorney General using a format determined by the Attorney General.
- 121 (g) In addition to the information collected under subsection (f) of this Code section, each
122 law enforcement agency shall send to the Attorney General on a monthly basis:
- 123 (1) All of the forms collected that month regarding motorists or pedestrians who were
124 stopped;
- 125 (2) Any complaints filed by motorists or pedestrians who believed they were the subject
126 of racial profiling; and
- 127 (3) Any other information the Attorney General deems appropriate.
- 128 (h) Law enforcement agencies and the Attorney General shall review the data required to
129 be collected under this Code section on an annual basis to determine whether members of
130 minority groups are disproportionately stopped, searched, warned, or arrested, shall report
131 findings to the public on an annual basis using a format determined by the Attorney
132 General, and shall take appropriate remedial action.

133 (i) The Attorney General shall take all necessary steps to ensure timely compliance with
134 the data collection and reporting requirements, including sanctions against any law
135 enforcement agency for failure to comply.

136 (j) Each law enforcement agency shall provide to the Attorney General an annual report
137 of the information recorded under the provisions of this Code section. The Attorney
138 General shall determine the format that all law enforcement agencies shall use to submit
139 this report.

140 (k) The Attorney General shall analyze the annual reports of law enforcement agencies
141 required under subsection (j) of this Code section and submit a report of the findings to the
142 Governor, the General Assembly, and each law enforcement agency no later than January
143 1 of each year. The report of the Attorney General shall include an analysis of the
144 collected data in accordance with general statistical standards. The report, findings, and
145 conclusions submitted by the Attorney General shall be deemed public records. The report
146 shall include at least the following information for each law enforcement agency:

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

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

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

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

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

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

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

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

171 **SECTION 2.**

172 This Act shall become effective on July 1, 2010, and apply to all stops of pedestrians or
173 motorists on or after January 1, 2011.

174 **SECTION 3.**

175 All laws and parts of laws in conflict with this Act are repealed.