

FIRST REGULAR SESSION

SENATE BILL NO. 287

99TH GENERAL ASSEMBLY

INTRODUCED BY SENATOR NASHEED.

Read 1st time January 11, 2017, and ordered printed.

ADRIANE D. CROUSE, Secretary.

1076S.02I

AN ACT

To repeal section 590.650, RSMo, and to enact in lieu thereof one new section relating to biased policing.

Be it enacted by the General Assembly of the State of Missouri, as follows:

Section A. Section 590.650, RSMo, is repealed and one new section
2 enacted in lieu thereof, to be known as section 590.650, to read as follows:

590.650. 1. [As used in this section "minority group" means individuals
2 of African, Hispanic, Native American or Asian descent.

3 2. Each time a peace officer stops a driver of a motor vehicle, that officer
4 shall report the following information to the law enforcement agency that employs
5 the officer:

6 (1) The age, gender and race or minority group of the individual stopped;

7 (2) The reasons for the stop;

8 (3) Whether a search was conducted as a result of the stop;

9 (4) If a search was conducted, whether the individual consented to the
10 search, the probable cause for the search, whether the person was searched,
11 whether the person's property was searched, and the duration of the search;

12 (5) Whether any contraband was discovered in the course of the search
13 and the type of any contraband discovered;

14 (6) Whether any warning or citation was issued as a result of the stop;

15 (7) If a warning or citation was issued, the violation charged or warning
16 provided;

17 (8) Whether an arrest was made as a result of either the stop or the
18 search;

19 (9) If an arrest was made, the crime charged; and

EXPLANATION—Matter enclosed in bold-faced brackets [thus] in this bill is not enacted and is intended to be omitted in the law.

20 (10) The location of the stop.

21 Such information may be reported using a format determined by the department
22 of public safety which uses existing citation and report forms.

23 3. (1) Each law enforcement agency shall compile the data described in
24 subsection 2 of this section for the calendar year into a report to the attorney
25 general.

26 (2) Each law enforcement agency shall submit the report to the attorney
27 general no later than March first of the following calendar year.

28 (3) The attorney general shall determine the format that all law
29 enforcement agencies shall use to submit the report.

30 4. (1) The attorney general shall analyze the annual reports of law
31 enforcement agencies required by this section and submit a report of the findings
32 to the governor, the general assembly and each law enforcement agency no later
33 than June first of each year.

34 (2) The report of the attorney general shall include at least the following
35 information for each agency:

36 (a) The total number of vehicles stopped by peace officers during the
37 previous calendar year;

38 (b) The number and percentage of stopped motor vehicles that were driven
39 by members of each particular minority group;

40 (c) A comparison of the percentage of stopped motor vehicles driven by
41 each minority group and the percentage of the state's population that each
42 minority group comprises; and

43 (d) A compilation of the information reported by law enforcement agencies
44 pursuant to subsection 2 of this section.

45 5. Each law enforcement agency shall adopt a policy on race-based traffic
46 stops that:

47 (1) Prohibits the practice of routinely stopping members of minority
48 groups for violations of vehicle laws as a pretext for investigating other violations
49 of criminal law;

50 (2) Provides for periodic reviews by the law enforcement agency of the
51 annual report of the attorney general required by subsection 4 of this section
52 that:

53 (a) Determine whether any peace officers of the law enforcement agency
54 have a pattern of stopping members of minority groups for violations of vehicle
55 laws in a number disproportionate to the population of minority groups residing

56 or traveling within the jurisdiction of the law enforcement agency; and

57 (b) If the review reveals a pattern, require an investigation to determine
58 whether any peace officers of the law enforcement agency routinely stop members
59 of minority groups for violations of vehicle laws as a pretext for investigating
60 other violations of criminal law; and

61 (3) Provides for appropriate counseling and training of any peace officer
62 found to have engaged in race-based traffic stops within ninety days of the
63 review.

64 The course or courses of instruction and the guidelines shall stress understanding
65 and respect for racial and cultural differences, and development of effective,
66 noncombative methods of carrying out law enforcement duties in a racially and
67 culturally diverse environment.

68 6. If a law enforcement agency fails to comply with the provisions of this
69 section, the governor may withhold any state funds appropriated to the
70 noncompliant law enforcement agency.

71 7. Each law enforcement agency in this state may utilize federal funds
72 from community-oriented policing services grants or any other federal sources to
73 equip each vehicle used for traffic stops with a video camera and voice-activated
74 microphone.

75 8. A peace officer who stops a driver of a motor vehicle pursuant to a
76 lawfully conducted sobriety check point or road block shall be exempt from the
77 reporting requirements of subsection 2 of this section.] **As used in this section,**
78 **the following terms shall mean:**

79 (1) "Arrests", detentions for which arrest charges are filed;

80 (2) "Benchmark", the number used as a basis of comparison in
81 determining possible disparities; benchmarks are the percentage of a
82 racial or ethnic group population within the larger population,
83 including but not limited to, residential drivers, driving population,
84 drivers or pedestrians stopped, or some other measured population;

85 (3) "Biased policing", occurs in circumstances in which the peace
86 officer's actions are based in whole or in part on the real or perceived
87 race, ethnicity, religious beliefs, gender, English language proficiency,
88 status as a person with a disability, or national origin of a person
89 rather than upon lawful and appropriate law enforcement procedures
90 based on observed behavior or facts about the individual indicating
91 criminal activity. "Biased policing" does not include investigations of

92 alleged crimes when law enforcement must seek out suspects who
93 match a specifically delineated description;

94 (4) "Consent search", a search authorized by the consent of the
95 individual, not by probable cause;

96 (5) "Contraband", illegal drugs, guns, or other objects that may
97 warrant an arrest;

98 (6) "Explicit bias", a prejudice, such as racism, against a group
99 of individuals involving animosity and consciously recognized by the
100 individual although not necessarily admitted publicly;

101 (7) "Hit rate", the rate of searches in which contraband is
102 found. The hit rate is calculated by dividing the number of searches
103 that yield contraband by the total number of searches. Hit rate may be
104 calculated for individual officers, agencies, or multiple agencies;

105 (8) "Implicit bias", a prejudice not consciously recognized by the
106 individual but which can be in conflict with the individual's conscious
107 values and affect behavior, resulting in embarrassment or regret;

108 (9) "Investigative stop", a law enforcement activity in which an
109 individual is briefly detained based upon reasonable suspicion
110 accompanied by articulable facts about the individual indicating the
111 possibility of criminal behavior. Investigative stops include:

112 (a) Agency initiated investigations;

113 (b) Officer initiated investigations, including pretext stops;

114 (c) Responses to calls for service;

115 (d) Responses to license plate readers or scans;

116 (10) "Law enforcement activity", certain activities conducted by
117 a peace officer including arrests, post-stop activities, searches, and
118 stops;

119 (11) "Limited search", law enforcement activity in which a peace
120 officer conducts a limited pat-down of a pedestrian or driver, or a
121 restricted search of his or her vehicle for weapons, not including areas
122 of the vehicle that are not immediately accessible to the driver, when
123 there are specific and articulable facts, which, taken together with
124 rational inferences from those facts, would lead a peace officer
125 reasonably to believe the individual is armed and presently dangerous
126 to the officer or others;

127 (12) "Pedestrian stop", an encounter between a peace officer and
128 a civilian that involves an investigatory detention based on a

129 reasonable suspicion of wrongdoing;

130 (13) "Person with a disability", any person with a physical or
131 mental impairment that substantially limits one or more major life
132 activities of such person, or a record of such an impairment, or being
133 regarded as having such an impairment;

134 (14) "Post-stop activities", actions officers take after making a
135 stop;

136 (15) "Pretext stop", a stop for which the peace officer cites a
137 criminal violation but which would not have been made except for the
138 officer's concern that other violations might be involved;

139 (16) "Racial or ethnic group", a population of individuals
140 perceived as White or Caucasian, Black or African American, Hispanic
141 or Latino, American Indian or Alaska Native, Asian, multiracial, or
142 other;

143 (17) "Rate of law enforcement activity", depending on specific
144 circumstances, the rate shall be:

145 (a) For categories of stops, the proportion of incidents affecting
146 a group divided by its benchmark, the proportion that group is of the
147 general population;

148 (b) For categories of searches, the number of searches affecting
149 a group divided by the number of stops for that group;

150 (c) For the hit rate, the number of searches for a group in which
151 contraband is found divided by the number of searches for that group;

152 (d) For other categories of post-stop activities, the number of
153 incidents affecting a group divided by the number of stops for that
154 group;

155 (18) "Ratio of disparity", the ratio of the rate of stops or other
156 peace officer activities for the individuals of a minority group to the
157 rate for Caucasian individuals;

158 (19) "Reasonable suspicion", a belief about an individual based
159 on specific and articulable facts, which, taken together with rational
160 inferences from those facts, would lead a peace officer reasonably to
161 believe the individual is involved in criminal activity;

162 (20) "Searches", searches based on probable cause or consent,
163 including aspects of the search;

164 (21) "Significant disparity", a ratio of disparity that is over one
165 hundred twenty-five percent of the overall state disparity for any

166 minority group for that category of officer activity after adjustments
167 have been accepted by the attorney general for factors other than bias
168 that are contributing to the disparity;

169 (22) "Significant disproportion", a ratio of disparity that is over
170 one hundred twenty-five percent of the overall state ratio of disparity
171 for any minority group for that category of officer activity;

172 (23) "Sobriety checkpoint or roadblock", a law enforcement
173 activity in which public safety justifies all vehicles be stopped without
174 probable cause or reasonable suspicion;

175 (24) "Stops", actions taken in the course of making a traffic or
176 pedestrian stop, including aspects of the stop;

177 (25) "Systemic bias," institutional bias, rather than individual
178 bias, as evident in a significant disparity or other measure of
179 disproportion.

180 2. Every member of a law enforcement agency within the state
181 of Missouri, including any civilian employee or party contracted by the
182 law enforcement agency, is prohibited from engaging in biased
183 policing.

184 3. Each time a peace officer stops a driver of a motor vehicle or
185 completes a pedestrian stop, the officer shall report, based on his or
186 her perceptions, at least the following information in a format
187 determined by the Missouri department of public safety:

188 (1) The real or perceived racial or ethnic group, age, gender,
189 status as a person with a disability, and English language proficiency
190 of the individual stopped;

191 (2) The jurisdiction in which the stopped individual resides
192 based on the best information available;

193 (3) The reason or reasons leading to the stop including but not
194 limited to, moving violation, equipment defect, invalid license plate,
195 sobriety checkpoint, roadblock, investigative stop, disorderly conduct,
196 panhandling, jaywalking, illegal possession of a weapon, call for
197 service, marijuana possession, and drug offense;

198 (4) How the alleged violations were detected including but not
199 limited to officer observation, radar, and scanner;

200 (5) The time, date, location, and duration of the stop;

201 (6) Post-stop activities;

202 (7) Whether any physical force was used;

203 (8) Whether a mental health professional was consulted at the
204 scene;

205 (9) Under what authority the stopped individual was searched,
206 including but not limited to, probable cause, consent, inventory, drug
207 or alcohol odor, incident to arrest, plain view contraband, reasonable
208 suspicion-weapon, and drug dog alert;

209 (10) If a peace officer summoned a drug dog, if the drug dog
210 alerted, and if the search found contraband;

211 (11) Stop outcome including but not limited to citation, warning,
212 arrest, and no action;

213 (12) If contraband was found and what type of contraband was
214 found, including but not limited to, drugs, alcohol, paraphernalia,
215 currency, weapons, and stolen property;

216 (13) If the stopped individual was handcuffed before arrest;

217 (14) If a peace officer asked for consent to a search, if consent
218 was received and how that consent was documented, including but not
219 limited to, signature, audio recording, and video recording;

220 (15) If individuals in the vicinity of or accompanying the stopped
221 individual were searched;

222 (16) What areas of a vehicle or person were searched, including
223 but not limited to, possessions, clothing, and electronic devices; and

224 (17) If a vehicle was towed.

225 4. Each law enforcement agency shall:

226 (1) Compile the annual data, which includes all the information
227 from section 3 of this section, on the standardized forms determined by
228 the department of public safety for vehicle stops and pedestrian stops;

229 (2) Submit the form to the attorney general no later than March
230 first of the following calendar year;

231 (3) Update the compiled data and conspicuously publish the data
232 on the respective law enforcement agency's website on a monthly basis;

233 (4) Maintain all data collected under this section for not less
234 than ten years; and

235 (5) Provide for the protection of the privacy of individuals whose
236 data is collected by not providing to the public the individual names
237 and identifying information regarding the particular peace officers who
238 made the stops and the pedestrians, drivers, and passengers who were
239 stopped.

240 5. (1) The attorney general shall analyze the annual data
241 compilations of law enforcement agencies required by this section and
242 submit a report of the findings to the governor, the general assembly,
243 the judiciary, and each law enforcement agency no later than June first
244 of the following year. The report shall use best practices to identify as
245 clearly as possible situations in which racial and ethnic groups are
246 disproportionately affected by law enforcement activity so that further
247 analysis may be conducted to determine whether explicit, implicit or
248 systemic bias may be contributing factors.

249 (2) The attorney general's report shall include specific
250 information on each law enforcement agency, including compilations
251 of the information reported by them under subsection 4 of this
252 section. This section shall be called agency data.

253 (3) The attorney general's report shall include statewide totals
254 of all the categories of law enforcement activity reported by law
255 enforcement agencies. This section shall be called statewide data.

256 (4) The agency data section and the statewide data section of the
257 attorney general's annual report shall include analysis of all categories
258 of stops, including total numbers of drivers or pedestrians stopped,
259 searched or arrested.

260 (5) The agency data section and the statewide data section of the
261 attorney general's annual report shall include subsections analyzing all
262 categories of stops on the basis of the ethnic and racial group
263 proportions of drivers and pedestrians. These subsections shall be
264 called group proportion data.

265 (6) The group proportion data subsections shall include rates for
266 each racial and ethnic group based on census data for each jurisdiction
267 or alternatives as described in this section. For the statewide group
268 proportion data subsection, rates shall be based on statewide group
269 proportions. The rates shall be a group's proportion of stops in each
270 category divided by its benchmark proportion of the drivers or
271 pedestrians.

272 (7) The group proportion data subsections shall include
273 disproportions expressed as ratios of disparity for each stop
274 category. The ratios of disparity shall be each group's rate divided by
275 the Caucasian group's rate. In instances in which discrimination may
276 affect the Caucasian population, the attorney general may issue a

277 supplemental section to his or her group proportion data subsection in
278 which the ratios of disparity shall be each group's rate divided by the
279 overall rate for all minority groups.

280 (8) The benchmarks for analyzing stop data shall be determined
281 by the attorney general following best practices. The benchmark:

282 (a) May be based on group proportions for the jurisdiction in the
283 most recent census;

284 (b) May include adjustments of the census proportions following
285 best practices such as:

286 a. A race and ethnicity spatial weighting data analysis tool;

287 b. Race and ethnicity specific data from observational surveys
288 of motorists;

289 c. Race and ethnicity specific data about traffic accidents in
290 which the driver is not found to be at fault;

291 d. Data derived from the United States Department of
292 Transportation National Household Transportation Survey;

293 e. Other benchmarks accepted by recognized experts or a
294 combination of the benchmark measures listed in this subdivision;

295 (c) Shall report the disproportions expressed as ratios of
296 disparity: the rate for the drivers of each minority group divided by
297 the rate for caucasian drivers and the rate of pedestrians of each
298 minority group divided by the rate for caucasian pedestrians.

299 (9) The agency data and statewide data sections shall include
300 subsections analyzing post-stop peace officer outcomes, including but
301 not limited to citations and warnings given, and arrests made, as well
302 as vehicles towed, based on the group proportions of drivers who have
303 been stopped and on the group proportions of pedestrians who have
304 been stopped. These subsections shall be called post-stop outcome data.

305 (a) The post-stop outcome data subsections of the attorney
306 general's annual report shall include rates for each racial and ethnic
307 group for each category of post-stop activity based on the benchmark
308 of group proportions of stops.

309 (b) The rates shall be the group's proportion of incidents in each
310 category divided by the group's proportion of stops.

311 (c) The disproportions shall be expressed as ratios of disparity:
312 the rate for the drivers of each minority racial and ethnic group
313 divided by the rate for white drivers or the rate for the pedestrians of

314 each minority racial and ethnic group divided by the rate for the white
315 pedestrians.

316 (10) The agency data and statewide data sections shall include
317 subsections analyzing all categories of searches. These subsections
318 shall be called search and hit rate data.

319 (a) The search and hit rate data subsections shall include search
320 rates for each racial and ethnic group for each category of search using
321 group proportions of stops as the benchmark. The search rate shall be
322 the group's number of searches in each category divided by the group's
323 number of stops.

324 (b) The search and hit rate data subsections shall include hit
325 rates for each racial and ethnic group for each category of search using
326 group proportions of searches as the benchmark. The rate shall be the
327 group's number of searches in which contraband is found divided by
328 the group's number of searches.

329 (c) The disproportions shall be expressed as ratios of disparity:
330 the hit rate for the drivers of each minority racial and ethnic group
331 divided by the hit rate for white drivers, or the hit rate for the
332 pedestrians of each minority racial and ethnic group divided by the hit
333 rate for white pedestrians.

334 (11) The attorney general's report shall include a section ranking
335 agencies on the basis of their ratios of disparity for categories of officer
336 actions most likely to involve bias. The rankings shall take into
337 account numbers of incidents. The rankings shall not be taken to prove
338 biased policing but shall serve to underscore the importance of
339 determining the factors behind the disproportions and addressing any
340 that involve bias.

341 6. (1) Each law enforcement agency shall ensure there is an
342 annual review of the data collected by its peace officers under
343 subsection 3 of this section, of the annual report of the attorney general
344 required by subsection 5 of this section, and of the agency's internal
345 data and information. Such review shall analyze all categories of law
346 enforcement activity contained in the attorney general's report to
347 determine whether individual officers in the agency, or the agency as
348 a whole, engage biased policing.

349 (2) An agency which finds the benchmarks used in the attorney
350 general's report on traffic or pedestrian stops to be inaccurate or

351 misleading may suggest an alternative benchmark based on the
352 methods listed in this section.

353 (a) The agency may also submit data for residents of the
354 jurisdiction and request that the attorney general determine
355 disproportions based on a benchmark derived from census data. This
356 analysis shall be used only in addition to one or more of the
357 benchmarks listed in this section.

358 (b) The agency's community partnership must approve the
359 alternative benchmark.

360 (c) The attorney general shall generate an alternative report for
361 the agency or explain in writing to the agency the deficiencies of the
362 suggested benchmark.

363 (3) If the review reveals a pattern of disproportion, either
364 systemically or for individual peace officers, the agency shall determine
365 whether the agency or any peace officers of the agency engage in
366 biased policing. The review shall examine factors that might be
367 contributing to the disproportion. Bias shall be assumed to be a factor
368 if other factors do not entirely account for the disproportion.

369 (a) The agency shall seek to determine the degree to which
370 systemic bias is a contributing factor in creating any pattern of
371 disproportion. In doing so, it shall review policies, supervision, and
372 training.

373 (b) The agency shall seek to determine the degree to which
374 explicit bias and implicit bias are contributing factors in situations
375 where bias appears to be a factor. If explicit bias cannot be determined
376 to be involved, implicit bias shall be assumed to be a factor in the
377 disproportions.

378 (c) Agencies shall investigate complaints and commendations
379 received from the public in order to determine if they support
380 suggestions in the data that peace officers are acting in ways that
381 result in racial and ethnic disproportions as a result of individual or
382 systemic factors. A summary of these investigations without the names
383 of individuals shall be included in the annual review.

384 (d) No later than September first of each year, the agency shall
385 issue a report to the public explaining the results of the review,
386 including the extent to which disproportions result from bias or from
387 factors other than peace officer bias. The report shall include proposed

388 solutions to any problems identified. Identifying information about
389 individual officers shall not be included in this report.

390 (e) The agency shall correct any problems revealed by the review
391 and immediately provide for appropriate supervision, training, and/or
392 counseling of any peace officer found to have engaged in biased
393 policing. The officer shall be removed from patrol duties until
394 completion of training.

395 (f) Peace officers who persistently engage in biased policing
396 shall be subject to discipline, up to and including dismissal.

397 7. Each law enforcement agency shall promulgate internal
398 policies to control biased policing, including:

399 (1) A stated prohibition of bias in policing consistent with
400 subsection 2 of this section;

401 (2) Submitting such policy to the attorney general for
402 verification as to its adequacy. The agencies shall notify the attorney
403 general when changes are made to the policy, so that the attorney
404 general can update verification;

405 (3) Provisions for training on biased policing as described in
406 subsection 9 of this section;

407 (4) Provisions requiring, for all investigative stops,
408 documentation of specific and articulable facts about the individual
409 which, taken together with rational inferences from those facts, lead
410 the peace officer reasonably to believe the individual is involved in
411 criminal activity;

412 (5) Procedures aimed at decreasing biased policing in the
413 administration of consent searches, which shall include the following
414 provisions:

415 (a) A peace officer shall have specific and articulable facts about
416 the individual which, taken together with rational inferences from
417 those facts, lead the peace officer reasonably to believe the individual
418 is involved in criminal activity;

419 (b) The peace officer shall document in writing such specific,
420 articulable facts about the individual involved for conducting a consent
421 search. The written documentation shall also include the results of the
422 search;

423 (c) Prior to conducting a consent search of a person or the
424 person's effects, a peace officer shall communicate in spoken or written

425 form in a language that the person being questioned clearly
426 understands, that voluntary consent authorizes the search, that the
427 authority of the search cannot be challenged in court if consent is
428 given, that the person is being asked to voluntarily consent to a search,
429 and that the person has the right to refuse the request to search;

430 (d) After providing such advisement, a peace officer shall
431 request, in plain language, that the person subject to the search
432 provide voluntary written or video consent to the search;

433 (e) The peace officer shall document whether the person subject
434 to search provides written, video, or audio consent;

435 (f) The peace officer shall refrain from asking for consent when
436 probable cause has been observed;

437 (g) Any evidence obtained as a result of a search prohibited by
438 this section shall be inadmissible in any judicial proceeding; and

439 (h) Nothing contained in this subsection shall be construed to
440 preclude any search otherwise based upon any legally sufficient cause;

441 (6) Procedures for requesting personal information from drivers
442 or pedestrians during a stop, including:

443 (a) When the motor vehicle has been stopped solely for a traffic
444 violation, a peace officer shall only request the following
445 documentation from drivers of motor vehicles: a driver's license or
446 other verifiable, government-issued identification, including foreign-
447 issued identification, motor vehicle registration, and proof of
448 insurance, unless there exists reasonable suspicion or probable cause
449 of criminal activity;

450 (b) No passenger of a motor vehicle shall be requested to provide
451 identification or any other documentation by a peace officer when the
452 motor vehicle has been stopped solely for a traffic violation, unless
453 there exists reasonable suspicion or probable cause of criminal activity;
454 and

455 (c) When a pedestrian has been stopped for reasons not based
456 upon probable cause to believe a crime has occurred or is about to
457 occur, the peace officer shall only request the first, middle, and last
458 name and address of the individual stopped;

459 (7) Procedures for recording the perceived language proficiency
460 and disabilities of individuals stopped; and

461 (8) Procedures for hiring new peace officers which encourage

462 diversity.

463 8. Each law enforcement agency with more than fifty peace
464 officers shall create a community partnership and comply with each of
465 the requirements listed below. Agencies with less than fifty peace
466 officers who choose to create a community partnership shall include no
467 fewer than five participants composed of representatives of law
468 enforcement, community leaders, and educational leaders who reflect
469 the diversity of the local community. Members of the community
470 partnership shall be approved by the city council or equivalent
471 governing body. No law enforcement agency shall be allowed to file a
472 request with the attorney general seeking a supplemental report using
473 an alternative benchmark unless they have created a community
474 partnership and received its approval to do so. The community
475 partnership shall seek to create mutual understanding between law
476 enforcement and the community about biased policing and to provide
477 a forum for each group to listen and respond to the other's
478 concerns. For agencies with more than fifty officers, the partnership
479 shall:

480 (1) Include no less than five participants composed of
481 representatives of law enforcement, community leaders, and
482 educational leaders who reflect the diversity of the local community;

483 (2) Facilitate workshops and public meetings in the community
484 on racial and other biases;

485 (3) Advise and assist in policy development and the training and
486 education of law enforcement agencies on biased policing;

487 (4) Annually and formally recognize law enforcement agencies
488 and individual peace officers who have demonstrated strong
489 commitment to addressing issues of biased policing and working with
490 the local community;

491 (5) Contribute to the agency's annual review;

492 (6) Approve or disapprove an agency's request that the attorney
493 general issue a supplemental report using an alternative benchmark;
494 and

495 (7) Participate in the process of hiring and training new peace
496 officers.

497 9. (1) All law enforcement agency training shall be in accordance
498 with peace officer standards and training (POST) commission standards

500 on issues related to the prohibition of biased policing, on data
501 collection and reporting methods, and on the policies required under
502 subsection 7 of this section. The POST commission shall develop and
503 disseminate guidelines and training on this section for peace
504 officers. The course or courses of instruction and the guidelines shall
505 stress development of effective, non-combative methods of carrying out
506 law enforcement duties in a diverse environment.

506 (2) Peace officers responsible for hiring shall receive training in
507 how to hire for the purposes of reducing bias in the department.

508 (3) The course of basic training for peace officers shall include
509 adequate instruction on diverse communities in order to foster mutual
510 respect and cooperation between law enforcement and members of all
511 diverse communities. The facilitators for the training should reflect
512 the diversity of cultures and races that the law enforcement agencies
513 serve and should include community organizers and activists that work
514 on policing issues.

515 (4) In developing and establishing criteria for the training, the
516 POST commission shall consult with appropriate groups and
517 individuals having an interest and expertise in the fields of implicit
518 bias, fair and impartial policing, civil rights, cultural awareness, and
519 diversity.

520 (5) Every peace officer shall participate in at least a one-time
521 training as prescribed and certified by the POST commission. The
522 course of instruction shall include:

523 (a) Constitutional rights, including second amendment rights;

524 (b) Identification of key indices and perspectives that make up
525 differences among residents in a local community;

526 (c) Negative impacts of implicit and explicit biases, prejudices,
527 and stereotyping on effective law enforcement, including examination
528 of how historical perceptions of discriminatory enforcement practices
529 have harmed police and community relations;

530 (d) The history and the role of the civil rights movement and
531 struggles and their impact on law enforcement;

532 (e) Specific obligations of peace officers in preventing, reporting,
533 and responding to discriminatory or biased practices by fellow officers;
534 and

535 (f) Perspectives of diverse, local constituency groups and experts

536 on particular cultural and police and community relations issues in a
537 local area.

538 (6) Once the initial one-time training is completed, each peace
539 officer shall be required to complete an annual training course that
540 reviews the topics listed in subdivision (5) of this subsection.

541 10. (1) If a law enforcement agency has failed, excluding minor
542 technical errors, to comply with any of the requirements of this section
543 for three consecutive years, the attorney general shall order that the
544 jurisdiction or governing body that the law enforcement agency serves
545 be required, from that point forward, to forfeit fifteen percent of its
546 annual general operating revenue received from fines, bond forfeitures,
547 and court costs for traffic violations including amended charges for any
548 traffic violations. The forfeited amount shall be paid to the general
549 revenue fund of the state of Missouri, to be designated as additional
550 funds for the police officers standards and training commission. The
551 penalty shall continue until such time as the requirements are met.

552 (2) If a law enforcement agency reports for three consecutive
553 years a significant disproportion, the attorney general shall study the
554 efforts of the law enforcement agency to achieve non-biased policing
555 during the prior three years, including the law enforcement agency's
556 annual review and remediation efforts. If the attorney general
557 determines that a significant disparity exists, the agency shall be
558 subject to review for a period of three years. In each year of the
559 review, the attorney general's office shall repeat its study of the law
560 enforcement agency's records, each time covering the prior three years,
561 to determine if a significant disparity continues.

562 (3) If, in its second year of review, a law enforcement agency
563 reports a significant disproportion, and the attorney general's study
564 determines that a significant disparity exists, and the law enforcement
565 agency cannot show good faith efforts as determined by the attorney
566 general to remedy the disparity, the governor may withhold any state
567 funds appropriated to the law enforcement agency. In addition, the
568 attorney general shall require changes in the agency's policies and
569 practices, including techniques for identifying problem officers,
570 requirements that an officer's ratios of disparity along with any
571 mitigating circumstances be a part of the record used to evaluate
572 promotions and reassignments, training of supervisors in the skills

573 necessary to eliminate biased policing, and increasing the quality and
574 quantity of officer training related to biased policing. The attorney
575 general's office shall work with other state agencies to provide
576 financial assistance and expertise to facilitate these changes.

577 (4) If, in its third year of review, a law enforcement agency
578 reports a significant disproportion and the attorney general's study
579 determines a significant disparity exists, the attorney general shall also
580 study the record of the law enforcement agency during the review
581 period to determine if the disparities are of such magnitude that the
582 law enforcement agency should be further penalized. The attorney
583 general shall take into account whether the agency is making a good
584 faith effort to achieve non-biased policing. As a minimum penalty, the
585 agency shall remain under review, with ongoing attorney general
586 oversight, until such time as the agency's annual report shows that a
587 significant disparity no longer exists or until such time as the attorney
588 general's study determines that bias is no longer a significant cause of
589 the disparity. As a maximum penalty, or after six years of review, the
590 attorney general shall order that the governing body or jurisdiction
591 that the law enforcement agency serves be required, from that point
592 forward, to forfeit twenty-five percent of its annual general operating
593 revenue received from fines, bond forfeitures, and court costs for
594 traffic violations including amended charges for any traffic
595 violations. The forfeited amount shall be paid to the general revenue
596 fund of the state of Missouri, to be designated as additional funds for
597 the police officers standards and training commission. This penalty
598 shall continue until such time as the law enforcement agency's annual
599 report shows that a significant disparity no longer exists or until such
600 time as the attorney general's study determines that bias is no longer
601 a significant cause of the disparity. In addition, the governor shall
602 withhold any state funds appropriated to the law enforcement agency
603 until such time as the law enforcement agency's annual report shows
604 that a significant disparity no longer exists or until such time as the
605 attorney general's study determines that bias is no longer a significant
606 cause of the disparity.

607 11. If after seven years or longer of review, the law enforcement
608 agency continues to report significant disparities for any category of
609 officer action for any minority group, the attorney general shall have

610 the authority to bring an action against the law enforcement agency for
611 systemic bias. If the plaintiff is successful, the judge shall order that
612 the law enforcement agency in question be dismantled and that law
613 enforcement responsibilities be taken over by the county or state until
614 such time as the local agency can be reconstituted with newly hired
615 and appropriately trained officers at both the command and rank-in-
616 file level.

617 **12. (1) An individual subject to biased policing practices or an**
618 **organization whose interests are germane to the purpose of this**
619 **section, may enforce this section in a civil action for any or all of the**
620 **following remedies: compensatory and punitive damages, injunctive**
621 **and declaratory relief, nominal damages, and such other relief as a**
622 **court deems appropriate.**

623 **(2) In an action brought under this section, relief may be**
624 **obtained against:**

625 **(a) Any governmental body that employed the peace officer who**
626 **engaged in biased policing;**

627 **(b) Any peace officer who engaged in biased policing practices**
628 **and any person with supervisory authority over such peace officer;**

629 **(c) Any civilian employee who is employed with a law**
630 **enforcement agency who engaged in biased policing practices and any**
631 **person with supervisory authority over such civilian employee; and**

632 **(d) Any party contracted by the law enforcement agency who**
633 **engaged in biased policing practices.**

634 **(3) A violation of this section is established when:**

635 **(a) An individual or organization brings an action demonstrating**
636 **that a peace officer has or peace officers have engaged in biased**
637 **policing of one or more individuals; and**

638 **(b) The governmental body, peace officer, or supervisor against**
639 **whom such action is brought fails to prove that:**

640 **a. Such biased policing is necessary to achieve a compelling**
641 **governmental interest; and**

642 **b. The least restrictive means were used to achieve the**
643 **compelling governmental interest;**

644 **(c) An individual or organization brings an action demonstrating**
645 **that the activities of peace officers have had a disparate impact on**
646 **individuals based on real or perceived race, ethnicity, religious beliefs,**

647 gender, status as a person with a disability, English language
648 proficiency, or national origin of a person rather than upon lawful and
649 appropriate law enforcement procedures based on observed behavior
650 or facts about the individual indicating criminal activity;

651 (d) The governmental body, peace officer, or supervisor against
652 whom such action is brought fails to prove a compelling governmental
653 interest for such activities; or

654 a. The governmental body, peace officer, or supervisor does
655 prove a compelling governmental interest for such activities; and

656 b. The individual or organization demonstrates a comparably
657 effective alternative policy or practice which results in less of a
658 disparate impact.

659 (4) In any action or proceeding to enforce this section against
660 any governmental body, the court shall allow a prevailing party to
661 recover reasonable attorney's fees, court costs, and expert witness fees.

662 13. Each law enforcement agency in this state may utilize federal
663 funds from community-oriented policing services grants or any other
664 federal sources to equip each vehicle used for traffic stops with a video
665 camera and voice-activated microphone.

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